7080. By Mr. RUDD: Petition of Carroll S. Smith, New York City, favoring the passage of House bill 11207; to the Committee on Economy.

7081. Also, petition of Baker, president Local 411, West Point, N. Y., opposing reduction of the Federal employees' salaries and payless furloughs; to the Committee on Economy.

7082. Also, petition of the American Agricultural Chemical Co., New York City, opposing increase of the Federal transfer tax on stock sales; to the Committee on Ways and Means.

7083. Also, petition of Cooperative G. L. F. Credit Corporation, Ithaca, N. Y., favoring the passage of the Norbeck-Steagall bill; to the Committee on Banking and Currency.

7084. Also, petition of M. J. Strathowe, Maspeth, Long Island, N. Y., opposing the suspension for one year of Federal aid for vocational education; to the Committee on Economy.

7085. Also, petition of American Legion Auxiliary, Queens County, N. Y., opposing reduction of hospitalization and compensation of World War veterans; to the Committee on Economy.

7086. Also, petition of Manahan Chemical Co., New York City, opposing the passage of the Muscle Shoals bill; to the Committee on Military Affairs.

7087. Also, petition of William J. Olvany (Inc.), New York City, favoring the passage of House bill 9975; to the Committee on Public Buildings and Grounds.

7088. By Mr. SANDERS of New York: Petition of Tony Ippolito and seven other World War veterans of Avon, N. Y., favoring immediate payment of the balance of the soldiers' bonus; to the Committee on Ways and Means.

7089. By Mr. SELVIG: Petition of Cloquet Commercial Club, Cloquet, Minn., favoring enactment of House bill 8688, providing for a compensating duty to be paid on pulpwood shipped into the United States by countries whose currency is depreciated; to the Committee on Ways and Means.

7090. Also, petition of Railroad Employees' National Pension Association, urging enactment of railroad pension bill, H. R. 9891; to the Committee on Labor.

7091. Also, petition of C. C. Stetson, St. Paul, Minn., favoring retrenchment of Government expenses wherever possible; to the Committee on Appropriations.

7092. Also, petition of C. W. Bjorness, Helmer Gaustad, and others, of Henning, Minn., and vicinity favoring immediate cash payment of bonus certificates; to the Committee on Ways and Means.

7093. Also, petition of Selmar Waldemar, Richard Berg, and others, of Henning, Minn., and vicinity urging immediate cash payment of adjusted-compensation certificates; to the Committee on Ways and Means.

7094. Also, petition of Shipmasters Association of Duluth, Minn., opposing decommissioning of the U. S. S. *Paducah* and any cancellation of training cruises for Naval Reserve; to the Committee on Appropriations.

7095. Also, petition of Park Region District and County Medical Society of Minnesota, opposing House bill 7525; to the Committee on Appropriations.

7096. Also, petition of George Morck and others, of Skime, Minn., favoring payment of soldiers' bonus; to the Committee on Ways and Means.

7097. Also, petition of Minnesota Vocational Agriculture Instructors Association, numbering 75 instructors in Minnesota, urging continued appropriation to maintain valuable agricultural training; to the Committee on Appropriations.

SENATE

WEDNESDAY, APRIL 27, 1932

(Legislative day of Monday, April 25, 1932)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The VICE PRESIDENT. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Haltigan, one of its clerks, announced that the House had passed without amendment the bill (S. 3095) for the relief of J. J. Bradshaw and Addie C. Bradshaw.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 1770) for the relief of Senelma Wirkkula, also known as Selma Wirkkula; Alice Marie Wirkkula; and Bernice Elaine Wirkkula.

The message further announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 194. An act for the relief of Jeff Davis Caperton and Lucy Virginia Caperton; and

S. 3270. An act for the relief of Daniel S. Schaffer Co. (Inc.).

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H. R. 804. An act for the relief of Mary L. Marshall, administratrix of the estate of Jerry A. Litchfield;

H. R. 1230. An act for the relief of Chase E. Mulinex;

H. R. 1260. An act for the relief of James E. Fraser;

H. R. 1290. An act for the relief of Jeannette Weir;

H. R. 1322. An act for the relief of Anna Lohbeck;

H. R. 1786. An act for the relief of Arthur H. Teeple;

H. R. 2013. An act for the relief of Pinkie Osborne;

H. R. 2033. An act for the relief of Theresa M. Shea;

H. R. 2042. An act for the relief of Hedwig Grassman Stehn;

H. R. 2189. An act for the relief of Elsie M. Sears;

H. R. 2841. An act for the relief of the owners of the steamship *Exmoor;*

H. R. 3467. An act for the relief of David C. Jeffcoat;

H. R. 3582. An act for the relief of the Atchison, Topeka & Santa Fe Railway Co.;

H. R. 3693. An act for the relief of William Knourek;

H. R. 3811. An act for the relief of Lela B. Smith;

H. R. 3812. An act for the relief of the estate of Harry W. Ward, deceased;

H. R. 4071. An act for the relief of W. A. Blankenship;

H. R. 4233. An act for the relief of Enza A. Zeller;

H. R. 4885. An act for the relief of Kenneth G. Gould;

H. R. 5052. An act to authorize the incorporated town of Juneau, Alaska, to use the funds arising from the sale of bonds in pursuance to the act of Congress of February 11, 1925, for the purpose either of improving the sewerage system of said town or of constructing permanent streets in said town;

H. R. 5256. An act for the restitution of employees of the post office at Detroit, Mich.;

H. R. 5265. An act for the relief of A. W. Holland;

H. R. 5940. An act for the relief of Florian Ford;

H. R. 5998. An act for the relief of Mary Murnane;

H. R. 6487. An act to authorize the incorporated town of Petersburg, Alaska, to issue bonds in any sum not exceeding $100,000 for the purpose of improving and enlarging the capacity of the municipal light and power plant, and the improvement of the water and sewer systems, and for the purpose of retiring or purchasing bonds heretofore issued by the town of Petersburg;

H. R. 6713. An act for estimates necessary for the proper maintenance of the Government wharf at Juneau, Alaska;

H. R. 7308. An act for the relief of Amy Turner;

H. J. Res. 361. Joint resolution to authorize the Surgeon General of the United States Public Health Service to make a survey as to the existing facilities for the protection of the public health in the care and treatment of leprous persons in the Territory of Hawaii, and for other purposes; and

H. J. Res. 375. Joint resolution to provide additional appropriations for contingent expenses of the House of Representatives for the fiscal year ending June 30, 1932.

CALL OF THE ROLL

Mr. FESS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Ashurst	Couzens	Johnson	Reed
Austin	Cutting	Jones	Robinson, Ark.
Bailey	Dale	Kean	Robinson, Ind.
Bankhead	Dickinson	Kendrick	Schall
Barbour	Dill	Keyes	Sheppard
Barkley	Fess	King	Shipstead
Bingham	Fletcher	La Follette	Shortridge
Black	Frazier	Lewis	Smoot
Blaine	George	Logan	Steiwer
Borah	Glass	McGill	Stephens
Bratton	Glenn	McKellar	Thomas, Idaho
Broussard	Goldsborough	McNary	Thomas, Okla.
Bulkley	Gore	Metcalf	Townsend
Bulow	Hale	Morrison	Trammell
Byrnes	Harrison	Moses	Tydings
Capper	Hastings	Neely	Vandenberg
Caraway	Hatfield	Norbeck	Wagner
Carey	Hawes	Norris	Walcott
Connally	Hayden	Nye	Walsh, Mass.
Coolidge	Hebert	Oddie	Watson
Copeland	Howell	Patterson	White
Costigan	Hull	Pittman	

The VICE PRESIDENT. Eighty-seven Senators have answered to their names. A quorum is present.

SENATOR FROM GEORGIA

Mr. GEORGE. Mr. President, I send forward the credentials of the Senator designate from Georgia, Hon. JOHN S. COHEN, and ask that they be laid before the Senate.

The VICE PRESIDENT. The Chair lays before the Senate the certificate of appointment, which will be read.

The Chief Clerk read the certificate, as follows:

STATE OF GEORGIA,
EXECUTIVE OFFICE,
Atlanta.

A proclamation by his Excellency Richard B. Russell, jr., Governor of the State of Georgia

To the Senate of the United States:

Whereas a vacancy now exists in the office of Senator in the Congress of the United States from the State of Georgia by reason of the death of Hon. William J. Harris:

Therefore, I, Richard B. Russell, jr., Governor of the State of Georgia, by authority of the Constitution of the United States and the act of the General Assembly of Georgia, approved August 16, 1913, do hereby designate and appoint Hon. JOHN S. COHEN, of the county of Fulton, this State, to the office of Senator in the Congress of the United States, vice Hon. William J. Harris, deceased, to serve until the people of this State fill the vacancy by election as provided by law, and until his successor is duly qualified.

In witness whereof I hereunto set my hand and cause the great seal of the State of Georgia to be affixed at the capitol, in the city of Atlanta, this State, on the 25th day of April, in the year of our Lord 1932, and of the independence of the United States one hundred and fifty-sixth.

By the governor.

RICHARD B. RUSSELL, JR.,
Governor.

[SEAL.]

JOHN B. WILSON,
Secretary of State.

The VICE PRESIDENT. The credentials will be placed on file.

Mr. GEORGE. The Senator designate is present, and I request that he now be given the oath of office.

The VICE PRESIDENT. The Senator designate will present himself at the desk and receive the oath of office.

Mr. COHEN, escorted by Mr. GEORGE, advanced to the Vice President's desk, and, the oath prescribed by law having been administered to him, he took his seat in the Senate.

CATTARAUGUS, ALLEGANY, AND OIL SPRINGS INDIAN RESERVATIONS, N. Y. (S. DOC. NO. 87)

The VICE PRESIDENT laid before the Senate a letter from the Comptroller General of the United States, transmitting, in further response to Senate Resolution No. 248, of the Seventy-first Congress (dated April 16, 1930), a final report on an examination made of the receipts of moneys arising from the leasing of lands and properties of the Indians on the Cattaraugus, Allegany, and Oil Springs Reservations, in the State of New York, referred to in his preliminary report submitted on January 12, 1931 (S. Doc. No. 253, 71st Cong., 3d sess.), which, with the accompanying report, was referred to the Committee on Indian Affairs and ordered to be printed.

DISPOSITION OF USELESS PAPERS

The VICE PRESIDENT laid before the Senate a letter from the Secretary of the Interior, transmitting, pursuant to law, a list of documents and abstract books on file in the Indian warehouses at Chicago, Ill., St. Louis, Mo., and San Francisco, Calif., which are not needed or useful in the transaction of current business of the department and have no permanent value or historical interest, and asking for action looking to their disposition, which was referred to a Joint Select Committee on the Disposition of Useless Papers in the Executive Departments.

The VICE PRESIDENT appointed Mr. NYE and Mr. PITTMAN members of the committee on the part of the Senate.

ANNUAL REPORT OF THE PUBLIC BUILDINGS COMMISSION (S. DOC. NO. 88)

Mr. SMOOT. Mr. President, I submit the annual report of the Public Buildings Commission for the calendar year 1931, and ask that it may be printed, with illustrations.

The VICE PRESIDENT. Without objection, it is so ordered.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a resolution adopted by the board of aldermen of the city of Chelsea, Mass., protesting against the proposed closing of navy yards on the Atlantic seaboard by the Secretary of the Navy, which was referred to the Committee on Naval Affairs.

Mr. LA FOLLETTE presented petitions, numerously signed, of sundry citizens of the State of Wisconsin, praying for the passage of Senate bill 1197, known as the Frazier farm relief bill, and other farm relief measures, especially the so-called Swank bill (H. R. 7797) and the so-called Wheeler bill (S. 2487), which were referred to the Committee on Agriculture and Forestry.

Mr. WALSH of Massachusetts presented a memorial, numerously signed, of sundry citizens of the State of Massachusetts, remonstrating against the proposed 10 per cent tax on sporting goods in the pending tax bill, which was referred to the Committee on Finance.

Mr. TYDINGS presented a petition of a committee of the Young Men's Democratic Club of the eighth ward, of Baltimore, Md., praying for the immediate payment in cash at full face value of adjusted-compensation certificates (bonus) of World War veterans, which was referred to the Committee on Finance.

He also presented a memorial of sundry citizens of Port Deposit, Md., remonstrating against the imposition of taxes on automobiles, gasoline, and, in general, on the motor industry in the pending tax bill, which was referred to the Committee on Finance.

Mr. BARBOUR presented a resolution adopted by the Board of Education, Essex County Vocational Schools, of Newark, N. J., protesting against the proposed withdrawal of Federal aid for vocational education to the States, which was referred to the Committee on Appropriations.

He also presented resolutions adopted by the Board of Directors of the Employers' Association of North Jersey, N. J., protesting against the passage of legislation providing for the payment of adjusted-compensation certificates (bonus) of World War veterans at the present time, and also favoring the prompt enactment of pending tax legislation so that the country may make early adjustment thereto, which were referred to the Committee on Finance.

Mr. ASHURST presented a telegram from Kibbey, Bennett, Gus T. Smith, and Rosenfeld, of Phoenix, Ariz., with reference to pending legislation proposing to restrict or prevent removal to the Federal courts of suits brought in State courts against foreign corporations, which was referred to the Committee on the Judiciary.

He also presented a telegram, in the nature of a memorial, from employees of the post office at Prescott, Ariz., signed by Alva Sims, president, and W. E. Lawson, secretary, remonstrating against proposed changes in working stand-

ards and reductions in the compensation of postal employees, which was referred to the Committee on Appropriations.

He also presented a telegram, in the nature of a memorial, from the Arizona Rural Letter Carriers' Association, signed by W. A. Brown, secretary, Phoenix, Ariz., remonstrating against the proposed 10 per cent cut in appropriations for the Post Office Department, which was referred to the Committee on Appropriations.

BETTERMENT OF DENTAL MATERIALS

Mr. HASTINGS presented a letter from the L. D. Caulk Co., of Milford, Del., which was ordered to lie on the table and to be printed in the RECORD, as follows:

[The L. D. Caulk Co., originators and manufacturers of dental filling materials and dental specialities]

MILFORD, DEL., *April 13, 1932.*

Hon. DANIEL O. HASTINGS,
United States Senate, Washington, D. C.

DEAR SENATOR: There is a small appropriation—approximately $10,000—which has for a number of years been carried in the Budget for the Bureau of Standards, which is the basis of cooperation between the Bureau of Standards and the American Dental Association for scientific investigations for the betterment of professional dental service in the interest of the general health.

The American Dental Association has shared in the expense of this work by an annual appropriation of its own, and is very much interested that the work should be continued for the general good, and as a member of the American Dental Association I ask your support of it.

The provision relates to the investigation of dental materials by the Bureau of Standards.

I will thank you greatly for your personal interest in this matter.

Very truly yours,

THE L. D. CAULK CO.,
G. LAYTON GRIER, *President.*

PREFERENCE OF VETERANS IN CIVIL-SERVICE EMPLOYMENT

Mr. REED. Mr. President, at my request in the last Congress there was inserted in the CONGRESSIONAL RECORD some comprehensive material on the subject of the preference of veterans in the civil-service employment of the Government. In the present Congress there is pending legislation proposing the consolidation of certain governmental agencies, which proposal has long been advocated by the American Legion. I have had submitted to me through Maj. Paul J. McGahan, former American Legion national executive committeeman from the District of Columbia, who was chairman of the Legion's national committee on veterans' preference last year, a copy of a resolution on these subjects adopted by the Legion at its Detroit convention and the report of this special committee.

I believe it will serve the convenience of the members of the Senate if this material appears in the CONGRESSIONAL RECORD, so as to complete the information available from the Legion. I therefore send the letter and the report to the desk and ask unanimous consent that they may be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered.

The letter and report are as follows:

THE AMERICAN LEGION,
DEPARTMENT OF THE DISTRICT OF COLUMBIA,
Washington, D. C., April 25, 1932.

Hon. DAVID A. REED,
United States Senate, Washington, D. C.

DEAR SENATOR REED: On two previous occasions you have done me the honor to give consideration to some studies that I have undertaken with regard to the preferential rights of former service men and women under the civil service of the Federal Government. For a number of years I have been actively connected with the local and national considerations by the American Legion of this subject. Under date of November 22, 1929, you caused to be inserted in the CONGRESSIONAL RECORD the first serious brief prepared by the American Legion, and on March 2, 1931, you again caused to be inserted in the CONGRESSIONAL RECORD another treatise.

At the last national convention of the American Legion, held in Detroit in September, 1931, consideration was again given to the subject of veteran preference in the civil service and the proposed consolidation under the Civil Service Commission of the personnel activities of the Federal Government.

At that convention, as chairman of the legion's national committee on veteran preference, I drafted and introduced—and the convention approved and adopted—the following resolution:

"Whereas the American Legion in its national convention assembled in Omaha, 1925; Paris, 1927; San Antonio, 1928; and Boston, 1930, declared its opinion that the Congress of the United States should abolish the United States Bureau of Efficiency, the United States Personnel Classification Board, and the United States Workmen's Compensation Board and transfer their functions to the United States Civil Service Commission; and

"Whereas it is the conviction of ex-service men and women, particularly those in the employ of the Federal Government, that the preferential rights of veterans as established by basic law and presidential Executive orders have continued to be seriously transgressed and that particular efficiency ratings should be based upon fact and not utilized under the 'general average' clause of congressional appropriation acts as a method of distributing salaries; and

"Whereas during the period since the Boston convention powerful and influential organizations and groups of national scope have renewed and continued the effort to divest the veteran of existing rights; and

"Whereas there are known to be under consideration at the present time plans and programs for the consolidation of the personnel functions of the United States civil service; and

"Whereas a special committee of the American Legion to study these matters and make recommendations to the national legislative committee regarding them was authorized at the Boston convention in Resolution 290, which committee has actively functioned the past year: Therefore be it

"*Resolved by the American Legion in its thirteenth annual convention assembled, this 24th day of September, 1931, in Detroit, Mich.*, That the position heretofore taken by the American Legion with regard to the consolidation heretofore mentioned and the protection of the preferential rights of veterans in the civil service is hereby reiterated and reaffirmed; that the national legislative committee is again instructed to keep the subject of veterans' preference legislation in its major program for the ensuing sessions of Congress until desired remedies as have been previously outlined in detail shall have been obtained; and be it further

"*Resolved*, That there is hereby established as a permanent committee of the American Legion a committee on veterans' preference, to serve annually and to be of such size as the national commander shall deem necessary, the duty of which shall continue to be to study all the questions involved and submit its recommendations and suggestions to national headquarters and the national legislative committee for the information and guidance of all concerned."

This resolution was prompted by the developments encountered by the special committee of the national organization of which I was the chairman and which were reviewed in the report prepared for the American Legion by that committee, which I am inclosing for your special attention.

Since you were good enough to cause to be printed in the CONGRESSIONAL RECORD these previous American Legion studies of a situation which is now actively before the Congress in proposed legislation, may I not suggest that this letter and the report on the special committee's activities for last year be printed in the CONGRESSIONAL RECORD? I believe they will round out and complete for the ready reference of your colleagues in the Senate and the Members of the House these views of the veterans themselves.

The federally employed veteran is much in the public attention just now, and, appreciating your long-sustained interest, I am venturing to submit this request. I told you a year ago that the veteran was still a long way from that position of preference in Federal employment that is promised him. You will note that the President's commission took pretty much that view, and perhaps if the consolidation of the personnel agencies can be brought about, as we have so long contended, there will be a betterment of things from all angles involved.

Faithfully yours,

PAUL J. MCGAHAN,
Past National Executive Committeeman,
The American Legion.

REPORT OF THE NATIONAL COMMITTEE ON VETERANS' PREFERENCE OF THE AMERICAN LEGION

[Paul J. McGahan, Washington, D. C., chairman; Norman L. Marks, New York City; Edward L. Mulrooney, Wilmington, Del.; Al P. Boyle, Chicago, Ill.; Dr. A. D. Houghton, San Fernando, Calif; Arthur D. Healey, Boston, Mass.; Staten Hankins, Austin, Tex.; and Thomas J. Salter, Las Vegas, Nev.]

The Thirteenth National Convention of the American Legion will mark the receipt of the first results of a national committee of the Legion on the question of the preferential rights of veterans under the Federal civil service. The only action that the committee above named will ask is that a permanent national group to study this subject and its ramifications be set up and hereafter be a permanent feature in the national activities.

This report is going to include as integral parts two documents which have heretofore appeared in the CONGRESSIONAL RECORD of the Congress of the United States. By means of these reports a rather comprehensive picture of civil-service preference to ex-service men and the American Legion's last-assumed position in this regard are presented:

The first of these two CONGRESSIONAL RECORD extracts are the remarks of United States Senator DAVID A. REED, of Pennsylvania, in the Senate on Friday, November 22, 1929. On that occasion Senator REED's observations, together with a letter of the chairman of this committee, who was then a member of the national executive committee representing the District of Columbia Department; a memorandum from Harlan Wood, then department commander of the District of Columbia Department; a copy of the important

Executive order signed by President Coolidge two days before he went out of office; and a report prepared by a special committee of the District of Columbia Department of the Legion occupied some 10 pages in the CONGRESSIONAL RECORD.

In this collection of data is to be found the most comprehensive and accurate recital of the preference rights under the Federal civil service of veterans. Particular attention is invited to the brief of the special committee of the District of Columbia Department. The committee which drafted this document was composed of comrades whose knowledge of the subject was such that even though more than three years has passed since it was prepared, no one of its statements or premises has been challenged. It might be stated at this point that it was as a consequence of this document that a special commission appointed by former President Coolidge to examine into the question of the application of veterans' preference reached the conclusions which made it possible for Mr. Coolidge to enunciate the Executive order under which very favorable treatment to veterans in the civil service was given.

The second of the extracts from the CONGRESSIONAL RECORD above referred to is likewise taken from remarks made in the United States Senate by Senator DAVID A. REED, of Pennsylvania, on March 2, 1931. On that occasion Senator REED, at the request of your committee, caused to be inserted a letter which set forth the details of an inquiry from the Hon. Thomas E. Campbell, head of the United States Civil Service Commission, who was chairman of an advisory committee convened by President Hoover to reopen the subject of the preferential rights afforded veterans and make recommendations to the President for revision or termination. It contains the text of Chairman Campbell's letter outlining the scope of the inquiry, which was addressed to National Commander Ralph T. O'Neil, who had in turn directed the chairman of your committee to make the American Legion reply. This reply in full text, which was submitted to Chairman Campbell and the members of his committee on January 1, 1931, likewise is printed in full in Senator REED's remarks as of March 2, 1931.

A careful study of these two documents hereinabove mentioned will give to the interested person a comprehensive view of the whole topic of veterans' preference in the Federal service and the difficulties which currently beset it. In addition, it is confidently believed by this committee that they will be compelling implements in causing the national convention at Detroit to adopt the resolution being submitted by this committee, which calls for the permanent establishment of a national American Legion committee to give continuous study to the problems of the preferential employment of veterans not only under the Federal Government but under State or local government as well.

For a great many years it has been a principal in American Government that the survivor of military or naval service should have a preferential right, subsequent to his or her discharge from the Federal military service to civil employment primarily this preferential right began under the Federal Government, but as the years have passed and the Nation has been involved in international conflict this same veterans' preference has been accorded to civil employees of the various States and respective municipalities and local political units.

The Federal civil service at the present time aggregates approximately 650,000 persons, and it should be of more than passing interest to legionnaires to know that approximately 125,000 of these scattered from one end of the United States to the other are persons male and female who at one time or another were part of the Military or Naval Establishment of the Nation. How many there are who likewise have this same veterans' status and are the beneficiaries of preferential status and treatment under State and municipal civil-service laws and requirements, this year's temporary committee now submitting this report has no data to refer to.

But the position of the legion is that the veteran is entitled to preference in appointment to positions under the Federal, State, and local Governments, because of having served the country in a time of need, and further, that in the event of reduction of personnel the efficiency of the veteran being equal or superior to that of a nonveteran, the veteran shall be retained in service. On this the legion in all its representations has been and will be firm, believing that it is not asking anything that is inequitable or anything that will in any measure impair that efficiency which the taxpayer has a right to demand of the civil government and indeed which must be exacted regardless of any entering conditions.

Preference to veterans under the civil service of the Federal Government is a grant by an act of Congress. It represents an effort to bestow upon those who served the Nation in a time of great distress, to be regarded as an expression of the good will and interest in individual well-being, on the part of the people of the Nation.

Foreign nations have long recognized the principles of rewarding within the civil-employment list of the State the returned veteran. One of the fields which your committee would commend to the permanent committee which it is confident the national convention at Detroit will direct be established, is the assembling of comprehensive data relative to the manner in which the other nations deal with the preferential treatment of their veterans in the matter of civil employment, be it state or local. It is the belief of your committee that Fidac, through its officers and headquarters, would be delighted to furnish the American Legion with comprehensive data in this respect.

The World War tremendously enlarged the number of veterans in the United States. The principle of veterans' preference had been established prior to the World War. So far as the Federal Government is concerned, there were thousands of individuals employed by it when the call to the colors came in 1917, who went forth then into military and naval careers. At this time there came that huge enlargement of the Federal civil service. When the war was over, there followed extensive revamping of the structure and personnel of the Federal civil service. It has in the subsequent years grown in size.

Washington, the seat of the Federal Government, naturally has the greatest concentration of Federal employees. It was not long after the American Legion was organized that the legionnaires of the District of Columbia department, all of them veterans and the majority of them federally employed, discovered to their sorrow that the preference to veterans established and proclaimed by law and buttressed by presidential Executive order, were failing to preserve not only their rights but the rights of every other federally employed veteran—whether he be Civil War, Spanish-American War, or former enlisted or commissioned personnel.

In the administration of the late President Harding the question of a real definition of the preferential rights of veterans was considered, not only as to appointment but also to retention in the service where reductions and consolidations were contemplated.

The District legionnaires started a battle to insure the protection of the veteran in the rights which it was felt the law intended they should have. Because the separation from the service and other incidents that so disturbed the District of Columbia legionnaires were not being felt to the same concentrated degree in other parts of the country, and because the Legion membership in other departments was apathetic to the situation, since their contact with the federally employed veteran was comparatively remote, this situation then appeared to be merely a local one to the city of Washington and not national in its import.

It must be said to the credit of the District of Columbia legionnaire, who, incidentally, is representative of the United States, since the majority have come to Washington from other places, that they then and there sought to make the issue a national one.

Resolutions seeking to remedy the conditions were taken to various national conventions; and finally, in 1925, at Omaha, the national convention of the American Legion, at the behest principally of the District of Columbia department, called upon the Congress to abolish the United States Bureau of Efficiency, the United States Personnel Classification Board, and the United States Workman's Compensation Board, and to transfer their functions to the United States Civil Service Commission, and take such other steps as might be necessary to place entirely within the control of the United States Civil Service Commission all Federal personnel matters, and eliminating the existing "general-average clause" from appropriation bills, establish a system which would not only give the veteran those preferential rights accorded to him or her by law upon entering the Federal service but preserve for him and her those preferential rights decreed by Executive order in connection with normal advancement, salary increases, promotion, and retention in the service when a reduction in personnel was contemplated or a consolidation of agencies was to be undertaken.

This committee can not help but comment at this point that, despite the fact that the seriousness of a situation which had its reflection in the attitude toward veterans under State and municipal and civil-service laws, failed to have its impression upon the Legion as a whole.

In subsequent national conventions, at Philadelphia, Pa., in 1926; Paris, France, in 1927; San Antonio, Tex., in 1928, these views were reaffirmed. At Boston in 1930, being convinced that the subject was one in which the American Legion could have more than an academic interest, the national convention adopted a resolution reaffirming the oft-reiterated attitude of the national body on the subject and directed that a committee to study it and to make recommendations to the national legislature committee and the national organization for the guidance of both be established. The committee which is submitting this report was established as a consequence of that mandate.

In the meanwhile very powerful influences were seeking to bring about the total abolition of any preferential rights for veterans. Leading in this movement was the National Civil Service Reform League, with headquarters in New York. Collateral with this movement was that of certain independent and governmental agencies, among the latter of which was the Personnel Classification Board, which were giving study to a personnel program for the Federal civil service. At the same time the National Federation of Federal Employees was likewise studying the entire subject of the classified Federal service. These were the principal agencies identified with the Federal aspect of the question. Numerous agencies having to do with the State and municipal phases were likewise active. This summary brings us to a report on what has proven to be the major activity of this committee now reporting and which doubtless will be the field to which the permanent committee must of necessity address itself in future considerations of the whole subject of whether or not the veterans shall be preferred and those preferences made permanent.

As an exhibit which this committee feels should be regarded as an integral part of this report, and which is appended hereto, is the report of the President's Advisory Committee on Veterans' Preference, which was submitted to President Hoover on April 21, 1931. This President's advisory committee is the body which most recently has considered the subject of veterans' preference in all of its ramifications. It was headed up as chairman by Gov. Thomas E. Campbell, the president of the Civil Service Commission, and included Gen. Frank T. Hines, Veterans' Administrator;

Congressman Royal C. Johnson, chairman of the House of Representatives Committee on Veterans' Legislation; Attorney General Seth W. Richardson; and John Thomas Taylor, vice chairman of the American Legion's national legislative committee. It was to this commission that the briefs previously referred to as having been inserted into the CONGRESSIONAL RECORD by Senator REED were presented by the chairman of this committee appearing for the national organization.

The President's committee considered the subject at various times from December, 1930, until late in April following. On April 24 President Hoover issued an Executive order amending the civil-service rules relating to veterans' preference.

In the annual report of the Civil Service Commission covering the fiscal year ending June 30, 1931, which has been prepared to be submitted to Congress when that body convenes next December, the effects of this new Executive order will be described in the following language:

"The Executive order of April 24, 1931, made the following changes in veterans' preference regulations:

"Under the new order a disabled veteran, to receive the addition of 10 points to his earned rating, must have an existing service-connected disability, whereas the former order allowed the 10-point preference to all disabled veterans. It is not expected that this change will reduce the number of disabled veterans appointed, but under the new provision those whose opportunity for appointment is enhanced by the 10-point addition, and by being placed at the top of the register in competition only with other 10-point preference eligibles, are those who were disabled in service and whose disability remains.

"The order allows the 10-point preference to officers and enlisted men who are retired and who establish the present existence of service-connected disability.

"When an appointing officer passes over a veteran eligible and appoints a nonveteran whose name appears on the same certificate with a rating the same as or lower than that of the veteran eligible, he must file the reasons therefor with the Civil Service Commission, to become a part of the veteran's record. Prior to the new order it was required that the appointing officer record his reasons in the department concerned. It is expected that the change will have the effect of causing appointing officers to exercise more in considering the relative merits of veteran and nonveteran eligibles.

"The 10-point preference is allowed also to widows of veterans, and to wives of veterans with service-connected disability in cases where the veterans themselves are disqualified for examination by reason of their disability.

"The order authorizes the Civil Service Commission to hold quarterly examinations for positions for which eligible registers exist, which examinations shall be open only to men and women entitled to the 10-point preference. The eligibles resulting from the quarterly examinations are to be placed at the head of the appropriate register in competition with other 10-point preference eligibles only.

"Other preferences established by former Executive orders under the general provision of law remain unchanged. These include the addition of 5 points to the earned ratings of veterans not entitled to the 10-point preference and the preferences relating to age limitations, apportionment, physical requirements, training, and experience, and reduction of force."

Your committee invites particular attention to the fact that from the issuance of the Executive order of March 3, 1923, which first provided for a 10-point preference for disabled veterans to June 30, 1931, 11,527 appointments in the Federal service were made of 10-point preference eligibles.

For the fiscal year ending June 30, 1931, 2,012 disabled veterans were appointed, as compared with 1,892 in the preceding year, and also 153 veterans' wives and widows entitled to the 10-point preference were appointed in the 1931 fiscal year as against 104 in the preceding year.

The great extent to which the American Legion must be committed to being eternally vigilant in protecting the preference rights and interests of veterans can probably be best appreciated when it is realized that during the period from July 1, 1919, to June 30, 1931, there have been 685,062 persons appointed to the classified service of the Government, and of these an aggregate of 169,395 were veterans with preference. Of this latter number 11,527 have been appointed since July 1, 1923, with 10-point preference, indicating that at least that many disabled men and women have been given Federal employment, and it must not be overlooked that there were 157,868 other veterans also appointed.

Some idea of the material benefit that the 5 and 10 point credit allowed to veterans may be had in the fact that figures compiled in 1930, according to official statistics of the United States Civil Service Commission, show that of 7,304 veterans appointed in that year, 904, or 12.4 per cent earned ratings of less than 70 per cent on the occasion of their examinations and became eligible for appointment through the addition to their earned rating allowed under the regulations. A computation made at the same time shows that of 9,362, 10-point preference eligibles appointed in a period of seven years, 1,657 or 17.7 per cent of this particular group had earned examinations ratings of less than 70 per cent, the required passing mark for ordinary competitors.

The Coolidge Executive order and the Hoover Executive order each became effective during the middle of a fiscal year. As a consequence, it is impossible to obtain a set of figures for a given 12-month period showing the operation of veterans' preference as now administered for 12 consecutive months. There exists, however, the probability that the report of the Civil Service Commission for the fiscal year ending June 30, 1932, will contain such a set of figures, and this committee earnestly recommends the study of that report by the permanent Legion committee which is now being set up.

Through the courtesy of the United States Civil Service Commission your committee is able at this time, however, to furnish the figures for the fiscal year ended June 30, 1931, showing by departments and independent offices the number of preference and nonpreference eligibles in the Federal civil service certified, appointed, and passed over. These figures disclose the personnel activities of 32 Federal departments and offices blanketing the entire United States.

They reveal that in the 12-month period from July 1, 1930, to June 30, 1931, out of the many thousands of persons who had taken civil-service examinations for positions in the Government, 98,994 had been certified as qualified for appointment, and that 33,417 had been appointed. In making this number of appointments out of the entire list of eligibles, 10,362 had been passed over when appointments were being made and persons on the registers below them given the places.

The figures just cited cover the preference and nonpreference group as a whole. In the 12-month period there were 70,046 nonpreference eligibles certified for positions, and of this number 23,742 were given appointments as 7,203 were passed over.

Now come the figures in which the Legion should be particularly interested, and we will treat of the 10-point preference group first. In this field a total of 7,131 were certified for Federal employment, and while the appointing officers were selecting 2,069 of these for appointment, they passed over 1,127.

In the 5-point preference field there was an aggregate of 21,817 veterans certified for appointment, and as 7,606 were being appointed to positions 2,032 were passed over.

Particular attention is invited to these figures because one of the amendments to civil-service regulations made in the Hoover order of April was aimed to prevent unjustified passing over of a veteran high on the eligible list and giving the job to a person beneath him on that list. The conclusion is rather inescapable that appointing officers are still passing over veterans to a larger degree than they are passing over nonpreference eligibles who have been certified to them. This situation is one to which this committee points emphatically and urges the permanent committee to take under close scrutiny.

In passing, this committee desires to make it clear that it does not believe that all of this apparent passing over of veterans can be attributed to a disinclination on the part of appointing officers to appoint nonveterans over veterans. It must be remembered that when a person on an eligible list is passed over in connection with the making of an appointment, that person retains his or her position on the eligible list and not infrequently is subsequently given an appointment. It has been brought to the attention of this committee as an example that appointing officers have found instances where a disabled veteran could not possibly perform the duties incident to the position then vacant because of the very nature of their disabilities. However, this committee is firmly convinced that since the disabled, the widows and wives, and the veterans generally are the special interest of the Legion, this aspect of the situation must be carefully watched in order that injustices may not be done.

The table just referred to and discussed is likewise included in the appendix to this report.

As has been previously noted by your committee, the principal attack on the preference accorded veterans has been to the effect that the number appointed to positions has been disproportioned to the number of nonpreference competitors appointed and that their advent into the Federal service has impaired its efficiency. It will not be until the report of the Civil Service Commission for the fiscal year ending June 30, 1931, is presented to Congress in December that it will be possible to indicate the class of positions and low rate of pay of the positions to which the bulk of veterans entering the Federal service this last fiscal year have been appointed.

It is highly significant in view of the criticisms that have been made, however, that the Hoover Advisory Committee in its report to him on these points upheld the contentions to the contrary advanced by your committee, to wit, the Hoover committee said at one point: "Your committee recognizes, of course, that under the preference statutes of Congress this larger proportion of appointments to veterans is warranted."

"The committee gave especial consideration to the classes of positions in the examinations for which veterans have competed and received appointment. The total number of veterans who received appointment in the executive civil service last fiscal year was 9,269. Of this number, 8,100 were appointed to positions where the maximum salary they could receive on appointment was $1,800 a year, and many of them received much less than $1,800. There were 883 veterans appointed as unskilled laborers. More than 2,500 entered the Postal Service; 1,755 received mechanic appointments in the navy-yard service; 337 in the engineer department at large; more than 500 in the prohibition-enforcement service; 635 in the Immigration and Customs Services; and 488 were appointed as guards. Only 73 veterans were appointed in the group of positions with a salary range from $3,200 to $4,000 a year; 25 in the salary range from $4,000 to $5,200 a year; 1 was appointed as principal agronomist at $5,600; and 1 was appointed as assistant technical director at $8,000.

"This showing, as established from the official records of the Civil Service Commission, in the view of your committee, does not

seem to support any claim that veteran preference as at present administered seriously affects the efficiency of the Government service."

Your committee for the moment desires to express the opinion that a survey of the positions to which during the fiscal year of 1931 the Civil Service Commission informs it 10,063 preference appointments were made out of a total number of 38,461 appointments, it will be found again that the vast majority of these were in the smaller salaried positions.

There is another reason why the American Legion should have a permanent committee on veterans' preference, as is being recommended by this committee, and which we believe will be approved by the Detroit convention. The Federal Government for a number of years, through various agencies, has been engaged in a study of the Federal personnel problems. This study has been participated in by the Congress and by agencies of the Government which have to do with personnel matters. The Welch Act of May 28, 1928, called for a survey by the Personnel Classification Board of certain phases of governmental wage policy and wage administration. During the third session of the Seventy-first Congress two voluminous reports were transmitted to Congress by the director of the Personnel Classification Board. One of these is known as House Document No. 773 of the Seventy-first Congress, third session, and the other is designated House Document No. 772 of the Seventy-first Congress, third session. The first mentioned is a printed book of 289 pages, the second embraces some 1,327 pages, and these are likewise included in the appendix to this report, which is being made as extensive and comprehensive as possible in order that the permanent committee may have ready access at national headquarters. Particular attention is invited to House Document No. 773, which is entitled "A Personnel Program for the Federal Civil Service." This is a report prepared by Herman Feldman, Ph. D., professor of industrial relations the Amos Tuck School of Administration and Finance of Dartmouth College, and economic advisor to the Field Service division of the Personnel Classification Board.

Particular reference should be made to Doctor Feldman's discussion beginning on page 135 of Preferences and Apportionment. In considerable detail extending from page 135 to page 138 Doctor Feldman discusses the entrance preference accorded to veterans. While your committee does not see eye for eye with Doctor Feldman in his conclusions, it nevertheless can not refrain from expressing its gratification at his expression and sentiment with regard to preference for disabled veterans, and for purposes of this report it desires to set forth Doctor Feldman's own language on this point, which is as follows:

"In all fairness a distinction must be made between those who were on the military rolls during the World War and those whose service resulted in disabling injury. With regard to the latter, there appears little doubt that the Government is justified in going far, even though at the expense of a certain amount of efficiency, to make it possible for wounded veterans to earn a living. This has been specially necessary because so many private concerns which voiced eternal gratitude when the war was in progress have not shown sufficient alacrity to provide suitable places for these veterans, thus making it difficult for some of them to secure other employment. The preferences given to these disabled men appeal to every human sympathy."

In this same report Doctor Feldman, on page 191, starts a discussion of "retention preferences of veterans," which is concluded on the following page. Your committee making this report is particularly interested in this phase of Doctor Feldman's conclusions. This interest arises out of the fact that unquestionably when the next or an ensuing Congress takes up the problem of legislative remedy of the ills of the Federal personnel situation, the report prepared by Doctor Feldman will be given serious consideration.

It has been the opinion of this committee that the efficiency-rating system now in vogue in the Federal Government, due principally to the effect of the "general-average clause" in appropriation bills, has not resulted in the rating of Federal employees for their actual efficiency, but, on the contrary, has been principally a method of allocating the employees into the various salaried groups for which a lump-sum appropriation is made.

Executive orders have sought to give the veteran a preference for retention in the service in the event of a reduction in the personnel of any part of the Federal service. The effect of these orders has never been entirely satisfactory to the veterans or to veteran organizations. This committee and officials of the Legion, particularly those identified with the national rehabilitation committee and the national legislative committee, have had personal contact with countless cases where the veteran, guaranteed a preference in Federal employment, has, when reductions in force have become necessary, been the victim of this juggling with efficiency rating and found himself dropped from the rolls.

The criticism of Doctor Feldman on this point is that the veteran organizations intimidate administrative officers into retaining inefficient men and women by protesting against their being dropped.

This committee feels impelled to observe at this time that the American Legion position has always been that the civil service of the Federal Government should be maintained on the most efficient basis, and that in advocating the cause of the federally employed veteran it at no time has insisted that an incompetent be retained. This committee believes that it would be advantageous, just as Doctor Feldman suggests, if it were readily possible for a conference with a high executive authority or a central personnel agency, and would point out that it is precisely for that purpose that it is recommended that there be a permanent committee within the Legion to deal with the problems involved. This committee would go even further than this by observing that it is rather doubtful that the ideal for the Government, as outlined by Doctor Feldman, can ever be attained. In any event there can be no doubt in anyone's mind that such a permanent Legion committee would do other than cooperate to the end of a complete mutual understanding with any public official willing to consult with it.

This committee realizes and appreciates that Doctor Feldman has made a painstaking and conscientious study of the personnel problem. It also appreciates that he, perhaps, did not have the facilities for particularizing on the problem of the veteran in Federal employment that was enjoyed by the two special committees that examined into the veterans question for Presidents Coolidge and Hoover.

When the Congress begins its consideration of this subject, it is the recommendation of this committee that the national legislative committee pay particular attention to seeing to it that the data assembled by the Coolidge and Hoover committees relative to veterans' preference be given consideration. This same recommendation for active observation and action on behalf of the federally employed veteran is also made as a charge to the permanent Legion committee on veterans' preference which this committee believes will be established.

In concluding this report the members and chairman of this committee desire to thank the national commander for the honor paid them in their appointment to serve the American Legion and the veterans generally during the past year.

The committee desires especially to express its appreciation of the courtesies extended to it by Gov. Thomas E. Campbell, of the Civil Service Commission, the chairman of President Hoover's advisory committee on veterans' preference, and the members of that committee.

In compiling this somewhat lengthy report and assembling the numerous exhibits attached herewith the committee has been actuated with a desire to place in the permanent files at national headquarters of the American Legion in Indianapolis, Ind., and available to the proposed permanent committee which it feels sure will be created, the most comprehensive collection of data on the subject of veterans' preference that it was possible for it to assemble.

Respectfully submitted.

For the committee: PAUL J. MCGAHAN, *Chairman*
National Committee on Veteran Preference.

WASHINGTON, D. C., *September 25, 1931.*

ENLARGED PUBLIC-WORKS PROGRAM—EMERGENCY CONSTRUCTION BONDS

Mr. WAGNER. Mr. President, several days ago I communicated with Prof. Edwin R. A. Seligman, of Columbia University, New York City, who is probably one of the leading economists of the world, and I asked for his opinion as to the proposal incorporated in the bill which I have introduced providing a loan for an enlarged public-works program at this time to help solve the unemployment situation. I have in my hand his response, which I ask may be read for the benefit of the Senate.

The PRESIDING OFFICER (Mr. FESS in the chair). Without objection, the clerk will read, as requested.

The Chief Clerk read as follows:

COLUMBIA UNIVERSITY,
New York, April 23, 1932.

Senator ROBERT WAGNER,
Committee on Foreign Relations, United States Senate.

MY DEAR SENATOR: I beg to acknowledge your letter of April 20. The situation is, indeed, a difficult one, and the trouble is that none of us can be absolutely sure that we are right in either our diagnosis or our suggested remedy. In the main, however, I think that you are on the right track. I have always felt that we should treat this emergency of peace very much as we treat the emergency of war, and that we should be perfectly justified in issuing a large emergency peace loan, as we did a Liberty war loan.

There are, of course, certain differences. When we issued the Liberty loan the banks were in good condition, everybody was optimistic and enthusiastic. To-day the situation in those respects is just the reverse. It would not be so easy to place the loan, and the issue of so large a loan would undoubtedly still further depress the market value of existing loans, thus increasing rather than decreasing our difficulties.

On the other hand, I believe that that is about the only way in which we can make a start for the better. All the efforts, and they have been well-considered ones, that are being made by the Government now are good so far as they go, but easy money is not adequate. I doubt whether even if capital were made entirely costless—that is, if the discount rate were reduced to zero—the wheels of industry would be set in motion again at once. The industrialist to-day is more anxious about a possible market for his goods than the cost of producing those goods.

What we need, therefore, is not simply more available credit, although that is good so far as it goes, but the actual setting of

the wheels of industry into motion. I do not see how there is any other recourse at present, except a program of Government outlay on a large scale.

We must, of course, distinguish between the balancing of the ordinary Budget, which is imperative, and the creation of an extraordinary or emergency Budget, and I concede that there are always strong arguments to be advanced against Government in business or Government outlays of the kind contemplated because of the inevitable waste and red tape which inhere with us in Government activity. If it were possible to have private industry initiate the movement, it would be far preferable; but under the circumstances it seems to me that the program you sketch out is on the whole the lesser of the evils.

If we are not very careful, we shall see in this country an almost irresistible movement toward real inflation through fiat money. That must be prevented at all costs, and a project like yours is one of the surest antidotes to that deplorable eventuality.

As I have said at the outset, the responsibility is great, and one can not be too sure of his diagnosis, but the time has come, in my opinion, for some constructive efforts on a really large scale. What has thus far been done at Washington is in the nature of a palliative. I think that we are ready now for something positive, and we must not forget the great dangers of inaction and further drifting.

You can make whatever use you want to of these lines. I have refrained hitherto from any public expression of my views because I did not want to appear to be a pessimist, and I am not a pessimist as to the final outcome, but we do need at Washington a great deal more constructive and forward-looking thinking than has yet been manifest.

Faithfully yours,

EDWIN R. A. SELIGMAN.

GOVERNMENT PAY CUTS OR FURLOUGHS

Mr. COSTIGAN presented a communication from the Chemical Society of Washington, D. C., relative to proposed pay cuts or furloughs in the Government service, which was referred to the Committee on Appropriations and ordered to be printed in the RECORD, as follows:

CHEMICAL SOCIETY OF WASHINGTON,
Washington, D. C.

To the United States Senate:

The Chemical Society of Washington (local section of the American Chemical Society), incorporated for the advancement of chemistry and the promotion of chemical research, whose membership comprises both Government and non-Government chemists, desires to bring to the attention of Congress certain facts which have not been given due weight in the consideration of Government economies by means of proposed pay cuts or furloughs in the Government service.

The Chemical Society feels that it can authoritatively speak for the scientific group of Government employees because of its intimate and first-hand knowledge of the scientific service. It is not the society's desire to speak primarily of the effect which the proposed reductions would have on the individual employee, a matter which has already been adequately presented, but to call attention to the effect which such reductions would have on the efficient conduct of the Government service, and consequently on the interest of the American people.

The society believes that most scientific employees have remained in the Government service because of the stability of employment which has heretofore existed and because of the opportunity to contribute to the health, welfare, and progress of the American people through scientific disoovery. A feeling of security and freedom from financial worry is necessary to permit creative mental effort, without which problems can not be effectively attacked. Every bureau includes numerous scientific employees who have remained in the service at considerable financial sacrifice. The differential in salaries between Government service and private employment, especially in the higher grades of the service, was clearly shown by the "wage and personnel" survey conducted by the Personnel Classification Board and reported to Congress in 1931 (71st Cong., 3d sess., H. Doc. 771).

Any of the various proposals for reductions directly affect the elements of security and stability, and as such can not help but work to the serious and lasting detriment of the scientific work of the Government. The building up of competent scientific staffs at the various bureaus has been a process of years of growth and effort. The destruction of confidence which would now occur would undoubtedly result in the disruption of these highly efficient organizations, when the return of industrial prosperity inevitably brings with it the attraction of much more remunerative private employment. In a recent address Dr. L. V. Redman, president of the American Chemical Society, an organization comprising 18,000 chemists distributed throughout the country, and director of research in an important industry, stated that industrial concerns generally repented the great economic loss which resulted from the disorganization of their scientific staffs during the depression of 1921, by dismissals and pay reductions, and are strongly opposing the repetition of that mistake at the present time. The advocates of pay reductions in the Government service propose that the Government shall now make the same mistake.

In addition to the vital importance of preserving the confidence of the scientists already employed, nothing should be done which will increase the widespread feeling now existing that the Government service does not offer a desirable career for the young chemist.

The Chemical Society believes that the proposed reductions would result in no economies but ultimately in an actual increase in expenditures. They would result in an increase in unemployment, decrease in purchasing power, and set an example for further wage reduction in all fields of employment throughout the country. The society is furthermore opposed to the principle of effecting national economies by placing an undue portion of the burden on all Government employees.

The Chemical Society is not convinced that any form of pay reduction is necessary or desirable. However, if one of the plans must be adopted temporarily, the furlough plan would be the least detrimental.

In conclusion, the Chemical Society of Washington believes that in this present time of stress it should not be hastily concluded that the many projects of scientific control and research which have been undertaken by the executive departments at the direction of Congress are unimportant, unnecessary, or unwise. By and large these projects are of the utmost importance to the health, the safety, the security, and the economic welfare of the American people, and they are prosecuted by men and women who are no less capable, industrious, and purposeful than their fellow scientists in any other branch of activity, and who have a profound consciousness of public service and an abiding loyalty to the Nation.

THE CHEMICAL SOCIETY OF WASHINGTON,
By EDWARD WICHERS, *President.*
JAMES H. HIBBEN, *Secretary.*
J. F. COUCH.

APRIL 18, 1932.

APPROPRIATION FOR ERADICATION OF GRASSHOPPER PLAGUE

Mr. NORBECK. Mr. President, I am not unmindful of the opposition there is to appropriation bills and the determined effort to reduce same, even the agricultural appropriation bill, but this bill contains an item of $1,450,000 to aid in the extermination of grasshoppers, a pest that threatens the well-being of half a dozen States. The grasshopper eggs are hatching while we are quibbling.

I ask, Mr. President, that there may be printed in the RECORD a letter from Hon. C. W. Pugsley, president of South Dakota State College, which is self-explanatory.

There being no objection, the letter was ordered to lie on the table and to be printed in the RECORD, as follows:

SOUTH DAKOTA STATE COLLEGE OF
AGRICULTURE AND MECHANIC ARTS,
Brookings, April 21, 1932.

Hon. PETER NORBECK,
United States Senate, Washington, D. C.

MY DEAR SENATOR NORBECK: We are becoming more concerned every day about the grasshopper situation in this and adjoining States. We know that you feel the same way, but that you are having difficulty persuading your fellow Members of Congress that the situation is serious. It occurred to me that your position might be strengthened if you had an exhibit of grasshopper eggs. We are sending such an exhibit under separate cover by special-delivery parcel post, and trust that it will arrive in good condition.

These eggs came from Britton, S. Dak., in the northeastern part of the State. Professor Severin, of the entomology department, is receiving many samples of eggs from there and elsewhere now. That section of the State, as you probably know, was not severely damaged last year, but if conditions are ripe for grasshoppers this year the indications are that the damage will be severe. I think that it is safe to say that the potential grasshopper damage in South Dakota is much greater at this time than it was last year because of the greatly increased number of fertile eggs covering a much larger area.

When the package arrives you will find that it consists of a large glass jar, inside which you will find a bottle or mailing tube containing the eggs and soil. Empty the packing material out of the larger jar, open the smaller container, and empty its contents into the larger jar. Sprinkle very slightly with water, just enough to have the soil slightly damp but not enough to make it in any sense sticky or muddy. Screw the lid of the large jar on and set the jar on the top of your desk.

If the eggs have not been damaged in transit by too much heat or lack of humidity you should have plenty of grasshoppers within five days to show your friends. Nothing will be needed in the way of artificial heat; the room temperature with the jar on your desk is all that is needed.

In this connection it may interest you to know that the entomologists of the department of agriculture and of State College last year took about a square foot of surface sod from one-half to 2 inches deep from a fence row near Hamill, in Tripp County, on the farm of Mr. Fenenga. They found that fully 50 per cent of the eggs in this square foot of soil had already hatched. They put the soil in a 2-quart jar and threw it in the car, where it was left for three or four days. When they reached the laboratory with the jar they counted 6,403 live grasshoppers. They made no effort to count the eggs unhatched or the dead hoppers. Professor Severin tells me that it is not unusual at all to find 10,000

grasshopper eggs in a square foot of soil, and that they can be found in many parts of the State to-day in that quantity.

We sincerely hope that the appropriation for grasshopper control may be made very soon. Every day's delay now is likely to mean the inability to destroy thousands of hoppers. It will be some time after the appropriation passes before contracts can be let for the poison, the mixture made, the poison shipped to the counties, and the counties organized for the distribution of the bait.

Our extension service is doing everything possible to make the preliminary organizations, but, of course, they can not proceed beyond a certain point. If the Federal money is to be spent at all, it will accomplish much more if it is available early in the season. As a matter of fact, a delay may mean that the grasshoppers will get such a start in some areas that poison will be completely wasted.

You know, of course, that these hoppers do not hatch out all at once. It is necessary for whoever is supervising the work to instruct the farmers to watch their fields and poison the hoppers as they appear and as they start intensive feeding in the fields of grain. That means constant vigilance, thorough instruction, and well-organized communities. It also means a tremendous amount of poison since the grasshoppers can not all be destroyed at once. The time of hatching is likely to extend over a period of a month and a half or more, depending on conditions.

May I add that three things are possible in connection with the outbreak this summer. One is that weather and other conditions may be ideal for the development of fungus diseases and parasites sufficient to prevent serious damage. If that condition occurs, it will mean that we will have to have lots of rain at the right time, especially during the months of May and June.

The second possibility is that weather conditions and other conditions may be so ideal for hatching of billions of eggs and the development of the hoppers that several times the amount of money suggested in the bill for poisons would not be ample.

It is quite possible, however, that an ample appropriation made in time will so curtail the outbreak that crops can be saved amounting to thousands of times the value of the bait.

I have heard rumors from some of my acquaintances in Washington that you have been opposed in your efforts in connection with this grasshopper-control appropriation by some of your fellow Congressmen, who say that the appropriation should not be made until it is known that the eggs were going to hatch. That is one of the reasons that we are sending you this shipment of eggs. They are beginning to hatch now, and the tests made during the entire winter convince our entomologists that fully 90 per cent of the eggs went through the winter in a fertile condition.

It seems to me that in a case of this kind where there is a chance to save so many millions of dollars that the appropriation should be made early in order to accomplish the most. Much of it will not need to be spent if the eggs do not hatch or if the season is adverse to a grasshopper outbreak. It also seems to me that it is rather shortsighted of the Government to loan hundreds of thousands of dollars to farmers in this area for seed and then to leave the farmer at the mercy of a menace which it is impossible for him to control without Government aid.

I am having this letter and a package of the eggs sent to each Member of the South Dakota congressional delegation, but to nobody else.

Sincerely yours,

C. W. PUGSLEY, *President.*

REGULATION OF INTERSTATE TRUCKS AND BUSSES—ARTICLE BY WILLIAM HIRTH

Mr. HAWES. Mr. President, I trust there will shortly be reported to the Senate a comprehensive bill giving jurisdiction to the Interstate Commerce Committee to control and regulate interstate traffic of trucks and bus carriers.

William Hirth, publisher of the Missouri Farmer, an authority on the subject of farm problems and an expert in the matter of roads, has addressed an open communication to me, and I ask unanimous consent to have it inserted in the body of the RECORD, and that it may be referred to the Committee on Interstate Commerce for its consideration. I believe it will be a valuable contribution to the discussion which will soon follow.

There being no objection, the communication was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

Hon. HARRY B. HAWES,

Senate Office Building, Washington, D. C.

MY DEAR SENATOR: As per my promise to you when I recently appeared before the Senate Interstate Commerce Committee, I herewith submit my views on the necessity of giving the Interstate Commerce Commission the power to fix the rates of interstate truck and bus carriers, and to surround the latter with other regulations in the interest of sound public policy. When witnesses appear before a congressional committee the frequent questions asked by the members make it difficult to follow a consecutive line of thought, and I therefore welcome this opportunity to restate what I intended to say in a more coherent manner.

In this connection I am glad to note that the Interstate Commerce Commission has asked Congress for the above authority, and if it is granted I hope the commission will not proceed upon the theory that it must go through a long process of experimentation, for the need for this character of regulation is immediate and acute. Also, I am not in accord with the suggestion of the commission that the railroads and water lines be encouraged to make a greater use of our public highways. As I will endeavor to show later, the congestion on the highways is already such that there is little room left for the motorist.

There is an old and oft-repeated saying that "competition is the life of trade," and thus it is not surprising that many Members of Congress, as well as laymen, have welcomed the new competition which trucks and busses have offered to the railroads during the last few years. But there is another old saying that "all is not gold that glitters," and I think this applies most forcibly in the present instance. That, generally speaking, competition should be preserved in all the great fields of industry goes without saying, but we should always have a care lest such competition leads to demoralization and thus becomes a vice rather than a virtue, and I think this is inevitable in the realm of transportation unless Congress takes a hand and formulates a definite nation-wide policy with reference to interstate truck and bus carriers which are expanding their operations by leaps and bounds, and which under existing conditions are a law unto themselves.

A MENACE TO FARM ORGANIZATIONS

It happens that I am the president of the Missouri Farmers' Association, which besides its larger centralized marketing agencies operates elevators and exchanges in nearly 400 Missouri towns, and when I tell you that our yearly volume of business in grain, livestock, poultry and dairy products, feed, flour, fertilizer, etc., is in excess of $100,000,000 you will appreciate that in these times of depressed farm prices not only is our association overwhelmingly the largest farm organization in any State in the Union but it is a question whether there is a larger one in the country; and, therefore, the problem of transportation is one of tremendous importance to us. That our nearly 400 elevators and exchanges, in which our thousands of farmer members have an investment of approximately $5,000,000, have saved the farmers of Missouri millions of dollars during the last 15 years in an increased price for farm commodities and in a lowered price of feed, flour, fertilizer, etc., is true beyond question, and in proof at the end of the year the profits earned by these elevators and exchanges are divided among our members in proportion to the business each has done, and thus these agencies are operated on a purely cost basis, and more than this a cooperative can not hope to achieve.

In addition to the above elevators and exchanges as late as three years ago we were also operating approximately 350 livestock shipping associations, which gather up the local hogs, cattle, calves, and sheep when they are ready for market, and then they are shipped by rail to the big stockyard centers to our cooperative livestock commission companies, through which they are sold to the packers, order buyers, butchers, etc., and through these terminal marketing agencies we have returned several million dollars in saved commission charges to our members in Missouri and to the members of allied farm organizations in the adjoining States. However, when three years or more ago the trucks appeared upon the scene we suddenly found ourselves confronted by an entirely new situation, and as time has gone on this situation has become increasingly menacing to the very existence of our association; during the early stages of truck expansion the trucker said to the farmer, "Why should you go to the trouble of hauling your livestock to town when I am glad to come to your farm and get it and when I am willing to haul it to market for only a little more than you would have to pay to ship it by rail?" This argument appealed to so many farmers that in a little while we found it impossible to gather up a weekly carload shipment at many points, and as a result many of our livestock shipping associations have gone out of existence, and at this time the strongest of them are seriously menaced.

FARMER HASN'T THOUGHT IT THROUGH

Perhaps at first thought you will say, "If the trucker can offer a more convenient service to the farmer than the railroads, why should not the farmer avail himself of it?" And everything else being equal, this should decide the matter; but the facts are that the "shrink" of livestock by truck is much greater than by rail, and this is true because as the trucks whirl around the innumerable curves on the average highway at a speed of 40 or 50 miles per hour and go up and down hill the livestock is constantly lunging from side to side or from end to end, with the result that it often reaches the stockyards in such a nervous condition that it will neither drink nor eat, and thus a good "fill" is impossible; also many truckers deliver the farmers' livestock to packers who buy direct (not through a public stockyard) on the theory that this will save the farmer the usual selling commissions, feed, yardage charges, etc., and many farmers "fall" for this argument without considering the fact that this policy undermines the great competitive livestock markets where packers and other buyers are compelled to bid against each other, and which situation the livestock producers of the country should maintain at all hazards. When livestock is shipped by rail the movement is much less violent than by truck, and hence when it arrives at the stockyards it is not only ready for a good fill but with fewer bruises, and also the railroads are interested in preserving the great central livestock markets, and thus it can be seen that the average farmer could well afford to ship by rail even if he is compelled to haul his livestock to the nearest shipping point and even though the rail rates were somewhat higher, and I cite these facts merely to show that shipping by truck is not in fact in the interest of the farmer,

and if it were the big farm organizations would be the first to give their hearty approval.

It is true that the farmer is not compelled to pay selling commissions, yardage, etc., when his livestock is delivered to a direct packer buyer, but since such a packer is a mere "camp follower" of the big public stockyards in point of price, and since he names without competition the price he is willing to pay, and from which there is no appeal, is it not safe to assume that in the end the farmer loses more than the commissions, yardage, etc., he would pay at a big terminal market? Certainly the direct packer buyer has a reason for wanting to do business in this way, and certainly this reason is not in the interest of the livestock producer, except that trucking has expanded so rapidly that the farmer as yet has not seen both sides of the picture.

A few years ago the marketing of livestock by the big cooperatives seemed one of the finest fields that beckoned to us, and this not only because our big terminal market commission companies were returning hundreds of thousands of dollars in saved commission charges to our members annually but by controlling livestock from the country shipping point to the stockyards we were getting in a fair way to stabilize terminal market prices. But with thousands of unregulated trucks breaking down our livestock shipping associations and delivering livestock to direct packer buyers, and thus weakening the big central competitive markets, and by ignoring our terminal market agencies at other times, this means that one of the greatest opportunities of the cooperative movement has been largely shot into a cocked hat, and as a result the big Corn Belt cooperatives have been greatly enfeebled.

In the meantime, during the last two years the trucker has begun to say to our farmers, "If you will allow me to haul your livestock, and happen to need feed, such as bran, shorts, tankage, poultry feed, fertilizer, etc., I have made arrangements to buy these commodities at the wholesale price, and I will gladly deliver them to your door on this basis in order to get a back haul"; and then the truckers get as much out of the farmer as they can, figuring that they are killing two birds with one stone—first, that in this way they secure a pledge of the farmer's livestock and, second, that even though the back-haul charge is largely nominal, it is that much "velvet" in any case. First, the trucks broke up many of our livestock shipping associations, and now they menace the existence of our nearly 400 elevators and exchanges, in which, as I have said, our members have an investment of $5,000,000, and this because when the truckers offer to deliver feed, fertilizer, etc., to the farmer's door at the wholesale price plus a nominal back-haul charge, neither a cooperative agency nor an independent dealer can long hope to hold their own against such competition. And if somebody asks, "Does not this mean cheaper service to the farmer?" I ask the counterquestion, "Suppose it does on the commodities I have mentioned, but suppose that this practice destroys the big cooperatives, which we have spent years in building up and which market the farmers' grain, livestock, poultry, and dairy products direct to the big consuming centers, and which offer the only hope of the farmer ever having anything to say about what he shall receive for the fruits of his toil?" In this case will not the farmer in the end have traded his birthright for a mess of pottage? We can not pay the operating expense of our elevators and exchanges throughout the year without making a modest profit on feed, flour, fertilizer, etc., and this is why I say that the trucks have begun to menace the existence of these agencies.

OUR ENTIRE DISTRIBUTIVE MACHINERY THREATENED

In their zeal to get a back haul of some kind the livestock truckers and other truckers have almost completely captured the less-than-carload hauling of local merchants, and yet, in my opinion, the latter are penny-wise and pound-foolish, for already certain truckers are peddling merchandise direct to the townspeople just as they are peddling feed to the farmer, and therefore does not this practice threaten to destroy those of our independent merchants who have thus far survived the deadly competition of the chain stores? Certain truckers are also buying up the choice eggs and chickens of the farmer, while the inferior grades are left for our elevators and exchanges and the local merchants to handle as best they can, and thus the demoralization grows apace and threatens the distributive machinery of the whole Nation in which hundreds of millions of dollars are invested.

So serious had these conditions become that in the winter of 1930 the executive committee of our association sponsored certain truck and bus bills in the Legislature of Missouri, and as a result these measures were passed by comfortable majorities. These bills regulate the size of trucks and busses, and give our State public-service commission the right to fix the intrastate rates of such carriers, and yet with St. Louis and Kansas City (which are our principal markets) located on the State lines of Illinois and Kansas, the latter provision is very largely meaningless. The National Stockyards, which are our leading livestock market, are located in East St. Louis, on the Illinois side, while by driving a few blocks farther upon one pretext or another the truckers who haul to the Kansas City Stockyards can likewise qualify as interstate carriers, and thus they are in position to snap their fingers in the face of our public-service commission, and the only remedy in sight is for Congress to give the Interstate Commerce Commission the power to fix the rates of interstate truck and bus carriers; then and not until then will order come out of chaos, as it did years ago when the Interstate Commerce Commission and our various State public-service commissions put an end to a similar demoralization with reference to the railroads.

LONG HAULS IMPORTANT FACTOR

In order to defend ourselves as best we can, some months ago we began to operate local trucks in certain communities, gathering up the livestock that was ready for market, and then shipping it by rail; at one point where the truckers were charging 50 cents per hundredweight for hauling livestock to East St. Louis, our trucks charged 12 cents per hundredweight to bring the livestock into the local shipping point, and after adding the rail charge, the total charge to the farmer amounted to 35 cents per hundredweight, thus effecting a saving for the farmer of 15 cents per hundredweight; thereupon one of the leading truckers reduced his charge to 35 cents, while another cut to 25 cents, and this merely goes to show that under existing conditions we are powerless to combat the situation, for faced with the loss of their business, the truckers will reduce their rates almost to the vanishing point—and the mere fact that they can not long exist on such a basis offers no comfort, for when one trucker is forced out, there are always two new and inexperienced ones to take his place. And until the interstate trucks are brought under control the enforcement of a fair intrastate rate is greatly handicapped—first, because, as I have said, our livestock movement (which is the backbone of the trucking business) is very largely interstate, and because the enforcement of intrastate rates substantially higher than the interstate rates would soon bring on a public outcry, and hence early action by Congress is the only solution.

And here is another practical certainty that stares us in the face: In the course of the average year, our association ships in several thousand carloads of corn, oats, etc., from the outside States, and we also ship hundreds of carloads of eggs, poultry, sweet cream, and butter to the distant eastern markets, and all of these hauls are long ones in which the railroads are indispensable; therefore, if the trucks and busses are permitted to pick off the cream of the short-haul traffic, in the end will not the Interstate Commerce Commission be compelled to greatly increase the rail rates on the long hauls, a character of traffic for which the trucks are not practical? Already the existing rail rates on grain and cattle out of the distant Northwest, West, and Southwest are a burden which, under the present low price of grain and livestock is almost unbearable, while if there is any material increase in these long-haul rates, they will become utterly confiscatory, and this is likewise true of long merchandise hauls, which, in the end, must come out of the consumer's hide. And, therefore, should not this long-haul problem have the serious thought of Congress? If in this character of traffic the railroads are indispensable, then can not anybody see the direction into which we are drifting? If the long-haul rail rates are materially increased, it will place tens of thousands of farmers who live long distances from the central markets in an almost impossible position, and I, therefore, have little patience with those who are constantly looking for a chance to "pound" the railroads without rhyme or reason, and who are too short-sighted to see what it is leading up to.

POUNDING HIGHWAYS TO PIECES

And now I desire to mention a phase of this matter which, in my opinion, is the most incongruous of all. During recent years our Government and the several States have invested approximately $12,000,000,000 in hard-surfaced highways which cover the country from end to end. Ostensibly these highways were built in the interest of the motorist, and yet no sooner were they ready for service when they were appropriated for private gain by the owners of trucks and busses, and this without compelling these carriers to contribute anything to the original construction cost of these highways, or even to contribute substantially to their maintenance—for such contribution as they make in the latter respect through license fees and a gasoline tax amount to a mere bagatelle, claims to the contrary notwithstanding.

No. 40, the main highway between St. Louis and Kansas City, cost approximately $10,000,000. It has been in use only about four years, and already I think I am safe in saying that 5 per cent of it has been resurfaced, and during the last year its deterioration has been rapidly increasing, and all because of the incessant pounding of the giant trucks and busses which cease neither day nor night. I understand that recently the ex-chairman of our State highway commission made the statement that this great highway will have to be completely rebuilt during the next three years, and in this case the bonds for its original construction will not have run half their maturity period; and if he is right, as I am sure he is, then where are we to get the millions of dollars that will be needed to replace it? In the meantime, as the trucks and busses increase, deadly accidents are likewise increasing, and this not only because of increasing congestion but because the motorist can not see past these huge trucks and busses, and thus he must be content to frequently trail them for a considerable distance, or take chances of a collision with an on-coming car, truck, or bus if he passes them. As a matter of fact, if this character of traffic keeps on increasing, the time is not far distant when the motorist will be driven off our leading highways entirely; and yet it was presumably in his interest that the Government and the States invested the gigantic sum of $12,000,000,000 in our great highway system; and, in my opinion, this situation constitutes the most idiotic and indefensible performance of its kind in the history of our country, and the only way in which we can hope to somewhat make amends is to compel trucks and busses to henceforth contribute their full share toward highway maintenance, and to fix their rates sufficiently high to enable them to do so.

Confined to the motorist, our highways would have lasted almost indefinitely, but, as things stand, the damage done by trucks and busses to our nation-wide highway system already mounts into hundreds of millions of dollars, and how much longer will our Government and the States continue a policy so unsound? Nearly all our leading highways parallel the railroads which are compelled to adhere to published rates, while the trucks and busses are free to prey upon their most desirable patronage as they please, and to make whatever rates they please, and in all decency is this fair?

In saying these things I certainly do not do so as a special pleader for the railroads, for as president of the Missouri Farmers' Association, and chairman of the Corn Belt Committee, which speaks for the big farm organizations of the Central States, I not only vigorously opposed the railroads in the Western Rate case some years ago, but I did likewise with reference to the 15 per cent freight increase for which they asked in 1931, and the records of the Interstate Commerce Commission will bear out this statement. But I can see what a menace the unregulated trucks have become to the continued existence of great cooperatives like the Missouri Farmers' Association, and likewise I see the menace they are with reference to the long-haul rates in which, as the picture looks now, the railroads will be indispensable for a long while to come. All in all, the situation is a good deal like it was years ago when the railroads were a law unto themselves, and when Congress was finally compelled to give the Interstate Commerce Commission authority over interstate rates, leaving it to the public-service commissions of the State to adjust intrastate rates accordingly, and in my opinion it is imperative that Congress adopt a similar policy with reference to trucks and busses, and no time should be lost in doing so—and I repeat that trucks and busses should be compelled to contribute their full share toward the maintenance of our highways, and that their rates should be fixed with this end in view.

A MISGUIDED TRANSPORTATION POLICY

And here I can not refrain from saying that in my opinion the general attitude of Congress during recent years toward our nation-wide transportation problem has been neither constructive nor in the interest of sound public policy. If it is really true that the railroads are the "backbone" of our transportation system, then why should not Congress have long since thrown a protecting arm around them, not in the interest of Wall Street, but to the end that rail rates might have been forced down to a minimum in the interest of all the people?

Is it consistent, on the one hand, to say through the Esch-Cummins Act that the railroads are entitled to a net return of 5¾ per cent and then, on the other hand, to appropriate hundreds of millions of dollars for highways and deep waterways and permit private individuals and corporations to use these subsidized agencies for private gain practically free of charge and thus make it impossible for the railroads to earn the net which the Esch-Cummins Act vouchsafes to them? Is such a policy fair to the railroads, or is it sound from a public standpoint? Should not Congress determine what agency or agencies can best serve the transportation needs of most of our people and then protect such agency or agencies in order that the rates may be kept as low as possible? If it is wise to have only one telephone and one light and power company in the same city in order to give the people the benefit of the lowered operating costs, should not the same general principle apply to transportation as near as possible? In other words, when we encourage as many different modes of transportation as Joseph's coat had colors do we not increase the general burden on the public?

For a good many years we have had a certain type of so-called statesmen who have posed as "friends of the people" by everlastingly jumping onto the railroads, and usually these gentlemen dwell long and loud upon the sins of Wall Street, and in this latter connection I would like to see Congress surround railroad financing with sufficient safeguards so that racketeering bankers will be compelled to choose between jail and decency, for it is perfectly true that there have been many conscienceless and indefensible performances in these premises. But granting that stringent safeguards of this kind are needed, we should realize that the railroads are a tremendous factor in the Nation's prosperity, and this is true because 50 cents or more out of every dollar they collect for service immediately finds its way into the pockets of the approximately 2,000,000 men and women they employ in normal times, yet this is only half the story, for in normal times the railroads consume 25 per cent of the output of our steel mills, 25 per cent of the output of our coal mines, and 20 per cent of the output of our lumber and cement mills, and thus indirectly they supply employment to perhaps a million or more additional workers. Also in practically every State the railroads are our heaviest taxpayers, and therefore they make a heavy contribution to the support of our public schools and higher institutions of learning, and in paying the costs of State, county, and municipal government; and finally, billions of dollars of railroad securities are owned by our great life-insurance companies and savings banks, and have we any funds in our Nation that are more sacred or more entitled to the solicitude of our Government?

EXISTENCE OF RAILROADS AT STAKE

For the above reasons it seems to me that Congress should lose no time in putting an end to the demoralization which has been created by the rapidly expanding truck and bus traffic, a situation which at this hour threatens to drive every railroad in the country upon the rocks; next, I think it should stop using the money of our taxpayers in creating new agencies of transportation which are appropriated for private gain—certainly the least the taxpayer can ask in these premises is that these new agencies shall reimburse the Government and the States dollar for dollar. In my opinion, unless a policy of this kind is adopted, not a railroad in the country will escape a receivership, and in the ensuing chaos the people will, as usual, be compelled to "pay the fiddler." As matters now stand, the railroads personify a giant bull who has a ring in his nose and who is tethered to a tree, and thus completely at the mercy of competing trucks, busses, pipe lines, deep waterways, and airplanes, which are free to assault him as they will, while the Government and the States look on unconcerned; yea, more than unconcerned, for the service of the trucks, busses, deep waterways, and airplanes is being subsidized at tremendous public expense, and that this policy, if continued, means the early destruction of the railroads, lock, stock, and barrel, is as certain as the rising and setting of the sun. Already many branch lines have been abandoned, and thus the doors are locked on hundreds of small-town stations in which only yesterday an obliging station agent was known by his first name to every man, woman, and child. And when the deep snows and blizzards of winter come these towns will be without service, for the trucks and busses are fair-weather birds which come and go when and as they please. If the railroads have outlived their usefulness, then perhaps the impending tragedy is inevitable, but should not Congress and the States make sure that this is really true? No one will deny that these competing agencies of transportation have a rightful place in the picture, but they should be so regulated that they will not undermine and demoralize our entire transportation structure.

WILLIAM HIRTH.

REPORTS OF COMMITTEES

Mr. BORAH, from the Committee on Foreign Relations, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 3191. An act for the relief of Anne B. Slocum (Rept. No. 601);

H. R. 7119. An act to authorize the modification of the boundary line between the Panama Canal Zone and the Republic of Panama, and for other purposes (Rept. No. 602); and

H. R. 9393. An act to increase passport fees, and for other purposes (Rept. No. 603).

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, to which was referred the bill (S. 2352) amending the act entitled "An act authorizing the Court of Claims to hear, determine, and render judgment in the civilization fund claim of the Osage Nation of Indians against the United States," approved February 6, 1921 (41 Stat. 1097), reported it without amendment and submitted a report (No. 605) thereon.

INVESTIGATION OF CAMPAIGN EXPENDITURES IN 1932

Mr. TOWNSEND, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred the resolution (S. Res. 174) for an investigation of campaign expenditures of presidential, vice presidential, and senatorial candidates in 1932, reported it with an additional amendment.

ENROLLED BILL PRESENTED

Mr. VANDENBERG (for Mr. WATERMAN), from the Committee on Enrolled Bills, reported that on the 26th instant that committee presented to the President of the United States the enrolled bill (S. 3570) to amend the act entitled "An act confirming in States and Territories title to land granted by the United States in the aid of common or public schools," approved January 25, 1927.

EXECUTIVE REPORTS OF THE FOREIGN RELATIONS COMMITTEE

As in executive session,

Mr. BORAH, from the Committee on Foreign Relations, reported favorably the nomination of Oscar S. Heizer, of Iowa, now a Foreign Service officer of class 4, and a consul, to be a consul general of the United States of America; and also sundry nominations of officers in the Diplomatic and Foreign Service.

He also, from the same committee, reported favorably the following treaties:

Executive B, Seventy-second Congress, first session, a treaty of arbitration and conciliation between the United States and Switzerland, signed at Washington on February 16, 1931; and

Executive F, Seventy-second Congress, first session, a treaty of establishment and sojourn, signed by the plenipo-

tentiaries of the United States and the Republic of Turkey at Ankara on October 28, 1931.

The VICE PRESIDENT. The reports will be placed on the Executive Calendar.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. NORRIS:

A bill (S. 4496) to amend the Federal water power act, as amended; to the Committee on Interstate Commerce.

By Mr. BORAH:

A bill (S. 4497) to add certain lands to the Boise National Forest; to the Committee on Public Lands and Surveys.

By Mr. SCHALL:

A bill (S. 4498) relating to per diem pay for bailiffs of the district courts of the United States; to the Committee on the Judiciary.

By Mr. SHEPPARD:

A bill (S. 4499) to amend an act entitled "An act to legalize the incorporation of National Trade Unions"; to the Committee on the District of Columbia.

By Mr. JONES:

A bill (S. 4500) to amend the act of June 19, 1912, by providing for a 35-hour week on all Government works, and for other purposes; to the Committee on Education and Labor.

A bill (S. 4501) granting a pension to Laura M. Brewer (with accompanying papers); to the Committee on Pensions.

By Mr. WALSH of Massachusetts:

A bill (S. 4502) granting a pension to Josephine E. Tanner; to the Committee on Pensions.

A bill (S. 4503) for the relief of Julia M. Holland; to the Committee on Naval Affairs.

By Mr. LOGAN:

A bill (S. 4504) for the relief of James Lowe; to the Committee on Claims.

By Mrs. CARAWAY:

A bill (S. 4505) to correct the military record of Jess Hooten; to the Committee on Military Affairs.

By Mr. THOMAS of Oklahoma:

A bill (S. 4506) for the relief of Fred Childress; and

A bill (S. 4507) for the relief of W. A. Peters (with an accompanying paper); to the Committee on Claims.

By Mr. GLENN:

A bill (S. 4508) granting a pension to Gus Colboth (with accompanying papers); to the Committee on Pensions.

By Mr. CUTTING:

A bill (S. 4509) to amend the act approved February 25, 1920, entitled "An act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain"; to the Committee on Public Lands and Surveys.

By Mr. FRAZIER (by request):

A bill (S. 4510) to authorize exchange of small tribal acreage on the Fort Hall Indian School Reserve in Idaho for adjoining land; and

A bill (S. 4511) to amend sections 328 and 329 of the United States Criminal Code of 1910 and sections 548 and 549 of the United States Code of 1926; to the Committee on Indian Affairs.

CHANGE OF REFERENCE

Mr. WALSH of Massachusetts. Mr. President, on January 25 I introduced a bill dealing with the powers of the Federal Trade Commission, which is known as Senate bill 3256, entitled "A bill to protect and foster trade and commerce, to supplement the powers of the Federal Trade Commission, and for other purposes." The bill was referred to the Interstate Commerce Committee. Similar bills dealing with the same subject are under consideration before the Committee on the Judiciary. I therefore ask that the Committee on Interstate Commerce may be discharged from the further consideration of this measure and that it be referred to the Committee on the Judiciary.

The VICE PRESIDENT. Without objection, that order will be made.

AMENDMENT TO SECOND DEFICIENCY APPROPRIATION BILL

Mr. COHEN submitted an amendment proposing a payment to Mrs. Julia Wheeler Harris, widow of Hon. William J. Harris, late a Senator from the State of Georgia, intended to be proposed by him to the second deficiency appropriation bill for the fiscal year 1932, which was referred to the Committee on Appropriations and ordered to be printed.

AMENDMENTS TO REVENUE AND TAXATION BILL

TARIFF ON COPPER

Mr. HAYDEN, Mr. WHEELER, and Mr. VANDENBERG jointly submitted amendments intended to be proposed by them to House bill 10236, the revenue and taxation bill, which were referred to the Committee on Finance and ordered to be printed.

TAX ON BOATS

Mr. WHITE submitted an amendment intended to be proposed by him to House bill 10236, the revenue and taxation bill, which was referred to the Committee on Finance and ordered to be printed.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolutions were severally read twice by their titles and referred as indicated below:

H. R. 804. An act for the relief of Mary L. Marshall, administratrix of the estate of Jerry A. Litchfield;

H. R. 1230. An act for the relief of Chase E. Mulinex;

H. R. 1260. An act for the relief of James E. Fraser;

H. R. 1290. An act for the relief of Jeannette Weir;

H. R. 1322. An act for the relief of Anna Lohbeck;

H. R. 1786. An act for the relief of Arthur H. Teeple;

H. R. 2013. An act for the relief of Pinkie Osborne;

H. R. 2033. An act for the relief of Theresa M. Shea;

H. R. 2042. An act for the relief of Hedwig Grassman Stehn;

H. R. 2189. An act for the relief of Elsie M. Sears;

H. R. 2841. An act for the relief of the owners of the steamship *Exmoor;*

H. R. 3467. An act for the relief of David C. Jeffcoat;

H. R. 3582. An act for the relief of the Atchison, Topeka & Santa Fe Railway Co.;

H. R. 3693. An act for the relief of William Knourek;

H. R. 3811. An act for the relief of Lela B. Smith;

H. R. 3812. An act for the relief of the estate of Harry W. Ward, deceased;

H. R. 4071. An act for the relief of W. A. Blankenship;

H. R. 4233. An act for the relief of Enza A. Zeller;

H. R. 4885. An act for the relief of Kenneth G. Gould;

H. R. 5256. An act for the restitution of employees of the post office at Detroit, Mich.;

H. R. 5265. An act for the relief of A. W. Holland; and

H. R. 5998. An act for the relief of Mary Murnane; to the Committee on Claims.

H. R. 5940. An act for the relief of Florian Ford; to the Committee on Indian Affairs.

H. R. 7308. An act for the relief of Amy Turner; to the Committee on Public Lands and Surveys.

H. R. 5052. An act to authorize the incorporated town of Juneau, Alaska, to use the funds arising from the sale of bonds in pursuance to the act of Congress of February 11, 1925, for the purpose either of improving the sewerage system of said town or of constructing permanent streets in said town;

H. R. 6487. An act to authorize the incorporated town of Petersburg, Alaska, to issue bonds in any sum not exceeding $100,000 for the purpose of improving and enlarging the capacity of the municipal light and power plant, and the improvement of the water and sewer systems, and for the purpose of retiring or purchasing bonds heretofore issued by the town of Petersburg;

H. R. 6713. An act for estimates necessary for the proper maintenance of the Government wharf at Juneau, Alaska; and

H. J. Res. 361. Joint resolution to authorize the Surgeon General of the United States Public Health Service to make

a survey as to the existing facilities for the protection of the public health in the care and treatment of leprous persons in the Territory of Hawaii, and for other purposes; to the Committee on Territories and Insular Affairs.

H. J. Res. 375. Joint resolution to provide additional appropriations for contingent expenses of the House of Representatives for the fiscal year ending June 30, 1932; to the Committee on Appropriations.

VOLUNTARY ASSESSMENT OF CAPITAL—ARTICLE BY A. LEO WEIL

Mr. NYE. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Voluntary assessment of capital is urged by lawyer to cure depression and sustain tottering social structure." The article appeared in the Pittsburgh Press, and was written by A. Leo. Weil, of the law firm of Weil, Christy & Weil, of Pittsburgh, Pa.

There being no objection, the article was ordered to be printed in the RECORD as follows:

VOLUNTARY ASSESSMENT OF CAPITAL IS URGED BY LAWYER TO CURE DEPRESSION AND SUSTAIN TOTTERING SOCIAL STRUCTURE—DEMANDS FOR CHANGES IN ECONOMIC FINANCIAL GOVERNMENTAL STRUCTURE GROWS—DISCONTENT SERIOUS, PITTSBURGH ATTORNEY SAYS; CHALLENGES WEALTH AND POWER

By A. Leo. Weil

There is nothing so blind as power and capital, except more power and more capital, and capital is one form of power.

The depression has affected capital more than labor. Capital, however, can stand it longer than labor. Capital losses, until they reach the stage of capital dissipation, produce hardship but not despair. Unemployment produces despair. Despair has no conscience. It follows any "will-o'-the-wisp" that promises relief, just or unjust, reasonable or unreasonable, transient or permanent.

The unemployed have neither the means, the mood, nor the men to provide remedies. Suggestions of economists, such as insurance against unemployment, old-age pensions, pensions for those by accidents incapacitated, and the like, are only for the employed. When normalcy has been restored they can be adopted and operated. Meanwhile they do not help. The billions voted and to be voted by Congress and by State and municipal governments are only for relief, and must be expended under constitutional and governmental restraints and regulations, and are not designed to make the wheels of industry revolve.

Seven to ten millions of unemployed, counting five to the family (a reasonable estimate considering the group) means 35,000,000 to 50,000,000 of the population of this country, nearly 30 per cent, and over 40 per cent of the whole population. As the pinch becomes more painful, this group will become more and more discontented and insistent upon changes in our economic, financial, social, and governmental structures to afford them relief.

History shows that no social structure can long endure with such a large percentage of its inhabitants driven to desperation, and this particularly in a democracy. What has capital proposed as a remedy? Nothing. Capital, in its blindness, remains inactive, oblivious to the escaping steam and smoke of the smouldering volcano which it sits beside with its robes of purple tightly drawn, and which at the first molten flow will be consumed.

But what can capital do to cure the depression? It can start the wheels of industry, give employment to the unemployed, put into circulation the wages of labor, and make this era of depression but a nightmare that came across the sleep of a prosperous Nation, whose granaries and warehouses were full, and which had capital and capacity in men and machines to supply the world.

Obviously the next question is, How can capital do this? The answer is simple; the wonder is that it has not been long ago suggested.

Let capital make a voluntary assessment upon itself of say 5 per cent. The capital of the United States in 1930, as compiled by the National Industrial Conference Board, was stated to be $329,700,000,000, with an income of $71,000,000,000 per annum. This would yield, if every interest paid its share, nearly $16,500,000,000. If only 50 per cent paid up it would yield nearly $8,250,000,000. These figures are given merely as illustrations.

This assessment could be made, in the judgment of those in charge, upon corporations as well as individuals and be limited, if thought advisable, to those exceeding a certain minimum of income or capital. This fund, through committees appointed by contributors, could be allotted to respective communities. By local committees under the supervision and control of the general committee or State committees, as desired (all appointed by those who contributed the fund), this money, without any restraints such as apply to funds voted by the Government, could be used, to illustrate, to tear down and rebuild the slum districts; to open, widen, and improve streets; to open and improve parks, playgrounds, and the like; to build bridges, subways, and the like; to improve waterfronts; and to countless other improvements that would permanently benefit and enrich the city.

These direct activities would employ large numbers of the unemployed, and the structural material—iron, steel, lumber, brick, plumbing, concrete, etc.—would create a demand that would reopen the shutdown industries and give employment to those who had been thrown out of employment by these industries for the want of demand. The wages paid would go into circulation, affecting the department stores and other commercial establishments of every kind, and the demand for supplies of all these would in turn create a market for manufactured goods of every variety, and thus put into operation all of those industries now closed down, the resumption whereof would offer employment. If these improvements were inaugurated in every city in the United States, the imagination would be staggered by the demand for products thereby created.

It will be objected that this is a "counsel of perfection" and presupposes a magnanimity, altruism, and unselfishness not reasonably to be expected of capital. I am unwilling so to estimate capital. In these later generations capital has given evidence of these traits and this trusteeship of wealth in the foundations aggregating hundreds of millions and philanthropic and charitable donations and bequests aggregating other hundreds of millions. But however this may be, based upon the most selfish considerations, capital could well afford to make this voluntary assessment and reap therefrom benefits largely in excess of its appropriation. Examine some of these returns to capital:

With these National, State, and city bond issues for relief aggregating many billions, who will be taxed to pay interest upon the bonds and ultimately the principal thereof? Chiefly the property holders, those who enjoy large incomes, the owners of securities, stocks, bonds, mortgages, and the like. In other words, capital. And how much of this vast sum thus repaid will have been wasted in inefficiency if not direct dishonesty? And yet these enormous sums will have been expended only for relief, not to remedy the evil of unemployment. The amount of these taxes imposed by the Government will possibly aggregate the amount of this proposed voluntary payment.

Capital will be benefited by the revival of industry and the removal of this depression to an amount almost inconceivable except to the trained actuary. Stocks and bonds and mortgages and real estate will regain their market values, dividend and interest payments will be resumed, which combined with these market values will aggregate manyfold the amount contributed to cure and remove the depression. Based solely on the cold-blooded calculation of a profitable investment, the return to the investors would be many hundred per cent.

As an insurance, a guaranty of the permanency and stability of capital, and to ward off and guard against attacks and assults upon capital, the amount of this contribution would be none too great. Revolutions are not always by armed force. They may arise by legislation and law as well. This is especially true of a democracy. An aroused people can not be denied. In their desperation they do not always demand that which is best. Much depends upon leadership, and leaders are not always wise and tolerant, farseeing and patriotic. The times are pregnant with murmurings of resentment. The longer present conditions continue, the louder those now suppressed murmurings will become until they may find voice in fierce cries and peremptory demands.

Capital in this country could be largely redistributed in perhaps a single generation by confiscatory taxes and taxes upon income and inheritance. It behooves all thoughtful men, and especially capital, to heed our present social conditions and the signs, which history tells us, have had their parallels in other countries preliminary to upheavals of society and of government. No revolution has ever occurred when times were good, people were prosperous, and workers were employed. An investment to-day in insurance and guaranty of permanence and stability of capital in the future is indeed well worth while.

This assessment upon capital to cure our present-day ills must be voluntary; it must come from within, not from without, not by government or by force. The reward will be great. Let capital overwhelm its own greed, selfishness, and love of possession, and make the heart throb and the soul soar with the gladness, the happiness of a great deed gloriously done, evidencing the acknowledgment by capital of its trusteeship of wealth and demonstrating its identity with humanity. If such happiness could be bought, whatever the price, it could not be too high.

Will capital exercise its power to cure the depression?

ALABAMA SENATORIAL CONTEST

The Senate resumed the consideration of the resolution (S. Res. 199), reported by Mr. GEORGE and Mr. BRATTON from the Committee on Privileges and Elections, as follows:

Resolved, That JOHN H. BANKHEAD is hereby declared to be a duly elected Senator of the United States from the State of Alabama for the term of six years, commencing on the 4th day of March, 1931, and is entitled to a seat as such.

Mr. BANKHEAD. Mr. President, I want to preface my remarks by reading a statement formerly made by the Senator from Delaware:

The Constitution, however, did give to the legislative branch of the Government judicial powers in one particular when it provided that each House shall be the judge of the elections, returns, and qualifications of its own Members.

This authority is perfectly plain. In exercising this power it becomes the duty of the House of Representatives and of the Senate to act solely in a judicial capacity, separate and distinct from their capacity as legislators. There is no legal appeal. The only appeal from the decision so made is public opinion; but if public opinion overrules the decision, it does not get rid of the precedent established. It becomes the duty of every Member of

the legislative body at such times to render a decision undisturbed by the clamor of the multitude.

Mr. President, with that statement I am in full accord. It had not been my purpose to discuss this case until the developments on yesterday. I am sure that every Member of this body on both sides of the Chamber will agree that since I came here I have engaged in no buttonholing of Senators; I have engaged in no electioneering with them; I have not in any way pressed my claims in this case. I have felt that, as the Senator from Delaware stated, in the decision of a contested-election case each Member of the Senate, under the Constitution and under his oath of office, is acting as a judge, or, at least, in a semijudicial position, and, from that standpoint, Mr. President, I have been content for the Members of this body to pass upon the law and the facts of this case as they may be directed and controlled by their judgments and consciences.

I have made no appeal to friends upon this side of the Chamber, as every man here will testify. I have not wanted to inject any political controversy into the decision of a judicial question. I have said nothing to any Member upon this floor that a litigant could not with propriety state to a judge trying his case. It is upon that principle that I ask for a final decision in this contested-election case.

I have felt, since so many statements were made yesterday which are not supported by any facts in this record and which can not be supported by any truthful testimony, that if I quietly acquiesced there might be drawn, from some sources at least, an inference that I did not care to meet them. It is my purpose, however, Mr. President, in this discussion to refrain from personalities and, so far as possible, to stay within the record, and to address myself to the deliberate judgment and to the consciences of Members of this body. Of necessity it may be necessary here and there to make some references that are not entirely in the record, but wherever that may be done they will be responsive to statements made upon the floor of the Senate and carried into the permanent CONGRESSIONAL RECORD as statements by the speaker who spoke here yesterday.

A good deal has been said about the primary election in Alabama and the part that I took in it. I think it has been made perfectly clear here that the action taken in 1928 was not directed against the contestant in this case. The record shows—and the resolutions were put into the record by the contestant himself—that in 1922 the same resolutions were adopted requiring an oath of loyalty by a candidate and different qualifications for the candidate than for the voter. In 1926 the same resolutions were put into the record imposing these same qualifications upon candidates and different qualifications for candidates than those for voters. In 1924 there was not put into the record a resolution which was passed by the Democratic State executive committee, but as it is a matter of official record and as it was used throughout the campaign in Alabama I feel free to read into the record that resolution adopted subsequent to the primary. The primary was conducted by a subcommittee on arrangements. On August 28, 1924, the committee passed the following resolution:

> That no elector who in the general election to be held in November, 1924, supports the candidates for presidential elector of any party other than the Democratic Party shall be entitled to vote or to be a candidate in any primary election held by the Democratic Party in Alabama, except a primary election held after any subsequent general election in which such elector did support the nominees of the Democratic Party.

In other words, a permanent rule was established by the committee after the primary in that year to give notice that that was the law of the party, of course always with the right to change it; and it is only necessary to call to the memory of Senators here the fact that in the year 1924, when that resolution was adopted the contestant in this case was the standard bearer of the Democratic Party for the highest office in the gift of the people of that State. Under that resolution, of necessity, acting under the organization of his party, he went before the people of Alabama in that election and held his credentials under that action.

Mr. President, the contestant made a speech here in 1928 on the subject of party loyalty. I am merely pointing this out to show that the action of the Democratic Party in 1930 was in line with all former attitudes and actions and beliefs of the contestant in this case.

In the CONGRESSIONAL RECORD of April 13, 1928, we find the following:

> Mr. HEFLIN. Mr. President, some weeks ago the Irish World, a Roman Catholic newspaper, threatened the Democratic Party with dire disaster if it should fail to nominate Governor Smith, of New York, for the high office of President of the United States. That newspaper served notice upon the Democratic Party that if it failed to nominate Governor Smith the Catholics would bolt the ticket; that they would not support the Democratic ticket to be nominated at Houston. This is an unbecoming threat and an un-American act. It violates every principle of American tolerance. It is in keeping, however, with the record of the Roman Catholic political machine regarding the National Democratic ticket. They bolted the Democratic ticket in 1916 because President Wilson refused to go to war with Mexico on behalf of the Catholic Church; they bolted the Democratic ticket in 1920, and in 1924 they bolted the Democratic ticket again. They have bolted the last three National Democratic tickets. They are really not entitled to participate in a Democratic primary or convention or to have one of their number run as a candidate on the regular Democratic ticket.

That is the doctrine for which the contestant stood throughout his political career until the year 1930.

Mr. President, by innuendo, by suggestions if not by direct charge, it has been asserted here that I had a part in preventing the contestant from being a candidate in the Democratic primary in 1930. There is nothing upon which such a statement can be based. Everybody in Alabama, I think, knows that I stood for leniency at that time, not because I thought it was due the contestant, but because I thought under all the conditions it would be best to change the fixed rule and policy of the party and let the contestant become a candidate in that primary.

Here is a statement published by me in the newspapers of Alabama. I want to read briefly from it. This was before the primary:

> I have believed since the last election that all Democrats who declined to vote for Governor Smith as the Democratic nominee should be invited to return to the party, and that any person qualified to vote in the primary should be allowed to run as a candidate. * * * I have believed and still believe that it is dangerous to the party welfare in Alabama to take any course that will continue discord and strife among the rank and file of the party. I have believed and still believe that if all the leaders of those who refused to support the straight Democratic ticket in the last election are excluded from being candidates that many voters in resentment will go out of the party to support such leaders in an independent movement.
>
> * * * * * * *
>
> A report is in circulation throughout the State that some members of the party personally desire to exclude all from being candidates who did not support all the Democratic nominees in the last election but will not vote to do so on account of a promise to me to vote otherwise. If there are such members—

And I say there were none—

> I certainly appreciate their personal loyalty to me. I take this occasion to say that in view of the serious consequences that may follow whatever action the committee takes, I am quite content for each member of the committee to vote on his own responsibility and according to his own judgment for what he believes is best for the party under all the circumstances. The responsibility is not mine, and, even if I could, I do not care to assume it.
>
> If there are any members of the committee who want to vote to put the bars up on candidates, but who feel constrained not to do so on account of any statement made to me, I wish to say that if they construe any such statement as a commitment or promise made to me, they are hereby relieved from any assurance they may have given me as to how they will vote on any subject coming before the committee.
>
> I have not changed my views, and this statement is made for the purpose of letting the committeemen and the public know that I am asking no consideration personal to me by any member of the committee in reaching his own conclusion about the wisest thing to do when the committee takes action.
>
> I recognize that the usual caution practiced by candidates would have kept me silent on this highly controversial subject. I have always openly and frankly expressed my views on public questions of importance to my party and to the people of our State. I recognize the right of others to do the same, and I admire a respectful exercise of it by others.

If being silent and colorless on issues of general public interest is a necessary qualification for a candidate or an officeholder, then I am out of place in public life.

That is the statement that you heard so much about here yesterday, carrying the implication that I had not acted in good faith; that I had released certain delegates pledged to me; and, Mr. President, the matter went far enough to mention the names of the members from my congressional district, Mr. Ogden and Mr. Cobb, who live at Vernon, and three members who live in my own little home town.

I call your attention to the fact that it was admitted here that the three men in my own little town, two of whom were my warm personal and political friends, and the other professing to be, all voted to let Mr. Heflin or any other candidate run in that primary election.

Oh, but they say that Mr. Ogden had some agreement or that I requested him to vote differently. But Mr. Ogden was put upon the stand in Birmingham and testified as a witness in the oral hearings there. He is a man of high standing, a banker, a cottonseed-mill owner, with large farming interests, a member of the State legislature, nominated and elected without opposition in the last primary and election to the legislature—the first office he ever held—after this primary was ordered. Let us see what Mr. Ogden said when the contestant's attorney was examining him as a witness.

He first says—page 2838:

I will ask you to refresh your recollection, if this didn't occur in substance between you and Mr. Childers—

Before the committee met—

if you didn't ask Mr. Childers to join you in voting to put up the bars and if Mr. Childers didn't tell you that he had talked with Mr. Arthur Fite and promised that he wouldn't vote to put up the bars?

Mr. OGDEN. I have no recollection whatever of that conversation.

And with Mr. Gibson, also?

I don't remember such a conversation.

And wasn't your reply to that, "John," meaning Mr. John H. Bankhead, "wants it done"?

No, sir; I never did make that remark.

You heard it here yesterday.

No, sir; I never made that remark that John Bankhead wanted it done.

Then he was asked about talking with me on this subject:

Did you have a conversation with Mr. Bankhead with reference to putting up the bars or the action of the committee?

Yes, sir.

How long was that before the committee met?

I went down to Montgomery. I went through Birmingham here going to the committee meeting.

And met Mr. Bankhead here?

Yes, sir; I went to his office.

I will ask you if Mr. Bankhead didn't tell you that if the bars were not put up and let Heflin and Locke in the primary they would be nominated?

No, sir.

What did he say about that?

I asked Mr. Bankhead what he thought we should do. I had made up my mind that I thought the bars ought to be put up, and I told Mr. Bankhead that I wanted his opinion as to whether he thought I was right or not, and he told me, he said, "I am not going to advise you what to do about it.

Not going to advise you one way or the other?

No, sir.

So there the Senate can well see the basis for the imputations that I was acting with connivance, or not in good faith.

Possibly for prejudicial purposes the subject of the Alabama Power Co. was brought into this discussion yesterday, and the statement was made that Mr. E. W. Pettus, the chairman of the Democratic executive committee, was an attorney for the Alabama Power Co., and that Mr. Jerome Fuller, the chairman of the Democratic campaign committee during that campaign, was an attorney for the Alabama Power Co. I say that neither of those gentlemen was an attorney for that company either in 1930 or since that time.

It is stated that all of the attorneys for the Alabama Power Co. were supporting me. As a matter of fact, I do not know who the local attorneys for the Alabama Power Co. here and there may be in Alabama, but I assume the statement was correct, because practically every lawyer in Alabama, both Democrats and Republicans, supported me in that election, with two outstanding exceptions—men who were and are attorneys for the Alabama Power Co. One of them was Mr. Arthur Fite, with whom I had correspondence that has been referred to here, and who lives in my home town, an attorney, and for years an attorney for the Alabama Power Co. On the ticket of the "independents," led by Senator Heflin, with only three nominees for State offices, Senator, governor, and lieutenant governor, one of those nominees, Mr. Powell, is an attorney for the Alabama Power Co.

I have had no connection with the Alabama Power Co. in any way for the last 8 or 10 years. I am stating what has been stated on every stump in Alabama and through the newspapers in Alabama throughout the campaign. Eight or ten years ago I had a small retainer from that company. When the agitation over Muscle Shoals came up, I was not in accord with the Alabama Power Co. having Muscle Shoals, and on that account, so that I could have complete liberty of action without embarrassment either to myself or to my client, I tendered my resignation as local attorney for that company, and since that time I have had no sort of connection, direct or indirect, with the Alabama Power Co.

It was stated here that Mr. Aarhus had a lead that some officer of the Alabama Power Co. was in conference when I was agreed upon as a candidate for the Senate. No conference was ever held on my candidacy. No such thing ever happened. I will not embarrass others by making a statement upon the subject, but it is well known that some of the representatives of the Alabama Power Co. in Alabama did not originally favor my candidacy in the Democratic primary. They preferred getting another candidate in the race.

A great deal has been said here about a Democratic machine in Alabama. The contestant has frequently stated upon this floor that for years he had been the leader of the Democratic Party in Alabama, so if any machine has ever been built up, of course, he was the head of it. But I want to say, as a matter of justice to the people of Alabama, I feel impelled as their representative here, at least for the present, to assert here, so that it may go into the RECORD, that there has been no political machine in Alabama, and, in accordance with the political philosophy, with the independence of thought, and the independence of action, of the voters in that State, it would be absolutely impossible for anyone to build up a political machine in that State.

If Mr. Pettus—and I say this upon my responsibility—the chairman of the Democratic executive committee, ever did a single thing to promote my nomination in that primary, I never heard of it. I have reason to believe he voted for me, but beyond that, Mr. Pettus, the chairman of the Democratic executive committee, took no part, because it is the policy in our State for our party officials, instead of trying to control and manipulate a machine and nominate a ticket, to be neutral, to be impartial between all of the candidates. Mr. Pettus has faithfully pursued that course from the time of his election as chairman.

Mr. President, the Senate heard a good deal said about absentee ballots, that a certain number of questionnaires had been sent out, and that about 2,000 had been returned undelivered. Senators know how natural that is. A man away from home, on business, gets a ballot sent to him, and a year later a questionnaire is sent to him at that address, and, of course, he is not there, because he got the ballot at that address on account of his being temporarily there. Senators heard the statement about 5,000 questionnaires not being answered. Everybody knows there is no obligation to answer a questionnaire of that sort, calling upon a voter to state how he voted.

Mr. President, many of those absentee ballots which were sent out were not voted, and I want to give the Senate from the record some reason why they were not voted. If Senators will examine page 57 of the majority report, and bear in mind that the lists of applications for absentee ballots were obtained from the probate judges, who were required

to keep a record of them, they will find that there were sent out to applicants for absentee ballots these two letters, which were put in evidence at the oral hearing at Birmingham:

NATIONAL SECRET SERVICE,
HEADQUARTERS SOUTHERN DIVISION,
October 31, 1930.

DEAR SIR: Investigation shows that you have applied to the probate judge for an absentee ballot for delivery to the election officials on November 4, or that some one using your name has done so.

Every absentee ballot in this section is under close surveillance. In order to legally cast an absentee ballot you must actually reside in the precinct in the county in which you propose to vote. You are required to make an affidavit that you are a bone fide resident of the precinct in which you propose to vote, and that you will be absent from the county on that day by reason of your regular business and in the performance of your regular duties.

You can not actually live in one county and claim to reside in another and claim to vote in the county were you claim to live instead of the county where you actually reside.

You must also apply for an absentee ballot yourself. A ballot brought to you by some one else is an illegal ballot.

Any illegal ballot sent through the United States mail may subject you to a charge of using the mails to defraud.

If you have been misled, or misinformed, or induced to send an illegal ballot to the probate judge, or some one else has used your name without your consent, you have a right to demand that the ballot you sent or the one sent in under your name be returned to you and destroy it.

All illegal absentee ballots not properly withdrawn will be investigated further.

All illegal ballots sent through the mails will be called to the attention of the United States district attorney for action by the

J. H. GRAY,
Chief of Special Agents, Southern Division.

The next letter is short and reads:

NATIONAL SECRET SERVICE,
HEADQUARTERS SOUTHERN DIVISION,
October 31, 1930.

DEAR SIR: You are under surveillance. Any conduct on your part constituting a violation of State or Federal election laws will be promptly handled by the proper authorities.

J. H. GRAY,
Chief of Special Agents.

Mr. President, the evidence developed that there was no such organization as the National Secret Service in Birmingham, or in that section; that there was no such man as J. H. Gray, who signed himself as chief of special agents; and, more important than that, the evidence developed that those letters were delivered for distribution to the campaign mentor, the most active man for the contestant, the man who has been appearing here as his chief counsel—Judge Horace Wilkinson—at his office in Birmingham. Judge Wilkinson was present when the witness testified to taking these documents and delivering them to him, and he did not even cross-examine him.

Can not Senators well understand, with threats like that, why a large number who had applied for absentee ballots did not return them? Still we hear the criticism indulged in here that a large number were sent out and not returned.

Mr. President, it was said that of the ballots which were returned, 4,500, four-fifths were for me. The figures presented to both parties to this contest by the supervisor working under the Senator from Delaware show that I got 61.58 per cent and that the contestant got 38.42 per cent, instead of my receiving four-fifths, as has been asserted here.

There are so many things that are injected in this case which are not in the record that it would be impossible for me, within reasonable limitations, to deal with all of them. A great charge was made here about the ballot boxes in De Kalb County. It was stated that the contestant had been defrauded of 500 votes in that county and they had to go to court to get the ballot boxes. But, Mr. President, information was not brought to you that there was no evidence to sustain such a claim, although the Republican probate judge of that county, a Republican and a supporter of the contestant, was put upon the stand as a witness for the contestant. The ballot boxes were kept because there was a contest over local offices, the Democrats contesting the Republicans.

It has been stated all through the record that De Kalb County was under the control and had been for years under the control of the Republican Party; that those in control were friendly to the contestant, all the county officials were for him, the election machinery favorable to him; and any reasonable man knows that even if the Democrats wanted to practice fraud, if they had no opportunity to put their hands upon the ballot box, there could be no fraud practiced by them. Any reasonable man would know further that if they had the opportunity to perpetrate a fraud for me they could have done the same thing for their county ticket and had it declared elected instead of defeated.

Mr. President, if any Member of this body desires any information from me or any statement from me about any matter which has been injected into the case—or any of the numerous unsupported statements, I will say in addition that have been injected into the case—I shall be glad to answer such inquiries.

I want to speak in a very general way, and to submit especially to the Senator from Nebraska [Mr. NORRIS] that he may, as courts sometimes do, grant a rehearing upon the question of the validity of the primary. The subject, of course, has been well discussed. There is, however, one aspect that I want to submit. Section 601 defines what is a political party. Section 624 provides:

Any qualified elector who is also a member of a political party as herein defined, participating in a primary election, shall be entitled to vote at such primary election and shall receive the official primary ballot of the political party and no other.

The point I have in mind for consideration is that section 612 as presented by the Senator from Wisconsin [Mr. BLAINE] does not purport to deal and does not deal with the qualifications of voters in any respect. It deals solely with the qualifications of candidates. Section 612 must be construed in connection with sections 624 and 672, which authorize the State committee to fix the qualifications of candidates.

Mr. President, there is a word in section 612 which to my mind has not yet had proper consideration in reaching a proper construction of the section. Section 612 does not say shall have the right "to vote." It says, "shall have the right to participate in such primary election." What does the word "participate" mean? Is it confined merely to voting? I submit not. Let me read from a section of the constitution of Alabama which sheds direct light upon the construction of that word. Section 183 reads:

No person shall be qualified to vote or participate—

To vote or participate!—

in any primary election, party convention, mass meeting, or other method of party action of any political party or faction who shall not possess the qualifications prescribed in this article for an elector or who shall be disqualified from voting under the provisions of this article.

So the constitution of our State recognizes that the word "participate" covers more ground than the mere word "vote"—"qualified to vote or participate in any primary election." How may one participate except by voting? He may participate by being an election officer not qualified to vote in a party primary being conducted by him, but in which he can not vote. We have the same officers for both the Democratic and Republican primaries. In De Kalb County two Republican officers and one Democratic officer serve to hold the Democratic primary as well as the Republican primary. Those Republican managers are qualified electors, but they are not qualified to vote in a Democratic primary because they do not possess the qualifications fixed by the party, but they are designated by law to participate in the Democratic primary, to conduct and manage it, to give out the ballots, to count the returns and certify the results—"participating," Mr. President, in another way than as voters and themselves not even voting in the Democratic primary. It includes voters, election officers, election watchers, and candidates.

Mr. HASTINGS. Mr. President——

The PRESIDING OFFICER (Mr. LEWIS in the chair). Does the Senator from Alabama yield to the Senator from Delaware?

Mr. BANKHEAD. I yield.

Mr. HASTINGS. I invite the attention of the Senator to the heading of section 612, as follows:

Who may vote in primary elections.

That is the heading. Has the Senator any explanation of what that means?

Mr. BANKHEAD. It is simply an expression by the codifier. No such title is ever written into a law in the State of Alabama. When the codifier got ready to incorporate in the code the amendment or the full act he of his own accord probably thought, as some Senators here think, that that is what it meant. But the codifier's view upon that subject certainly does not control any court or anyone acting as a lawyer or a judge in deciding what is really covered and intended by the language of the statute itself.

Let us follow that a step further. There is another expression in section 612 which has not received any consideration here in the discussion of the proper construction of that section. I refer to the words "subject to" the qualifications fixed by the State executive committee.

Mr. TYDINGS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Maryland?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. Before the Senator leaves the subject of absentee ballots, as I recall it, he said he received about 61 per cent of those cast.

Mr. BANKHEAD. Yes; I read the figures.

Mr. TYDINGS. How did the proportion of absentee ballots compare with the total of all the ballots?

Mr. BANKHEAD. About 2 per cent more were cast for me than the percentage of the total number of ballots of the State showed.

Mr. TYDINGS. In other words, eliminating the absentee ballots, the percentage of votes cast for the Senator from Alabama as against Heflin was about 60 per cent?

Mr. BANKHEAD. Substantially the same proportion.

Mr. BLACK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to his colleague?

Mr. BANKHEAD. I yield.

Mr. BLACK. It might be pertinent to state that the figures my colleague has, as I understand it, are based on the actual reports made by the voters as to how they voted.

Mr. BANKHEAD. Yes; and compiled by the supervisor working under the direction of the chairman of the subcommittee, the Senator from Delaware [Mr. HASTINGS].

"Subject to." What does that mean? Does it mean the same qualifications? I submit that it does not. I submit that it means acquiescing in, subordinate to, the qualifications fixed for the candidate. It will be recalled that the law as reenacted in the code under section 601 gives the right to qualified voters to vote in that primary who are "members of any political party."

Does anyone take the position that the amendment of section 612 repeals section 624? That position is not tenable because since the amendment of section 612, section 624 has been reincorporated in the code of 1927. If the construction is accepted, that same argument as to section 612 necessarily results in the emasculation if not the repeal of section 624 carried along with section 612 in the code. It also destroys the effect of section 672 which authorizes the State committee to fix the qualifications for its candidates, at the same time leaving in the code, to work harmoniously with it, the provision that white electors who are members of the party have the right to vote in the primary.

Now, let us reread section 612 in view of that:

All persons who are qualified electors under the general election laws of this State—

And now I will incorporate the provisions of section 624 here—

and who are members of any political party which has registered the percentage of vote required by section 602—

Because that is what constitutes a political party—

shall have the right to participate in such primary.

Now let us read it in this way.

All persons who are qualified electors under the general election laws of this State, and who are members of any political party which has registered the necessary percentage, shall have the right—

Now, let us substitute proper words for "participate"—

Shall have the right to vote or become a candidate—

Because "participate" includes both—

in such primary elections, subject to such political or other qualifications as may be prescribed by the State executive committee or governing body of such political party for its candidates.

The candidate may participate by accepting the qualifications fixed for him; the voter may participate by accepting the qualifications fixed for the candidate.

If a member chooses to come in, Mr. President, he enters, whether as a voter or as a candidate, subject to the action of the committee in respect to qualifications, political or otherwise, prescribed for its candidates. He must respect and acquiesce in this action as a voter and as a candidate.

So, Mr. President, when we give section 612 a construction, which is consistent with the other sections in the code, which is consistent with a reasonable construction, and which does not lead to absolutely absurd results, and when we take into consideration what "participate" includes and what "subject" means, it is perfectly apparent, as the able and fearless Senator from Wisconsin [Mr. BLAINE] pointed out, though not elaborating the argument as I have done, that section 612 simply requires those who participate in the primary to consent to and acquiesce in the qualifications fixed for the candidate.

However, Mr. President, why should we strain at the construction of that statute when the decisions are practically unanimous to the effect that, when there is no action preceding the election to invoke the power of the court but where the parties go to the people speculating upon the result, it is then too late to raise such a question. I want to read into the RECORD the names of the different States that have directly and specifically passed upon that question. They are Massachusetts, Illinois, Missouri, Nebraska, Idaho, Texas, Montana, Wisconsin, Kansas, Ohio, Indiana, Michigan, Colorado, Iowa, Mississippi, Minnesota, Washington, and South Dakota—18 States. The same rule is laid down in Ruling Case Law and in Corpus Juris.

Mr. President, I am not going to take the time to go into a discussion of the various facts involved in this case. I should be pleased to do so, because every line of investigation in this case leads to the conclusion that there has been no fraud in the Alabama election. It was stated before the subcommittee by the attorney for the contestant in this case that they did not dispute the truthfulness of the certificate of returns, so far as the fact of their execution by election officers is concerned. They took the broad position, Mr. President, that all of the election officers participating in that election signed those certificates, but that they were merely arbitrarily made up. That direct explicit confession is contained in the printed arguments in this case; that they were arbitrarily made up in 2,043 election boxes in Alabama, with more than a third of the election officers who signed those returns not voting for me, as shown by the ballots over here as recounted by the subcommittee. Only 62 per cent of the election officers voted for me, and still we hear the charge made here that 38 per cent of election officers, not favorable to my candidacy, signed and swore to false certificates of returns, which did not truly state the result of the vote in the ballot boxes.

We hear the suggestion later that ballot boxes may have been substituted on the day of election. How absurd that is to a thoughtful mind! The elections were held in country schoolhouses—and 72 per cent of the population of Alabama is rural as distinguished from urban—the elections were held in the broad, open light of the courthouses, in public places, everywhere attended, Mr. President, by election officers selected by the organization representing the independent party of which the contestant here was a candidate. The law gives each party the right to submit a list of names of persons to serve as election officers, and, although that

independent party was not a legal party as defined by the law of Alabama, by unanimous consent it was recognized as such, and it is shown by the actual ballots as well as by statements made at the very beginning of this contest and all through the record that officers were selected, one inspector at least and one clerk in each voting box, where the contestant had known supporters, with one or two exceptions. The ballots themselves show that to be true. And yet thoughtful men who are engaged in analyzing facts and making up a judicial decision are asked to accept a mere suggestion that under those conditions while the election was proceeding there may have been a substitution of ballot boxes during the day.

Oh, they say, if ink had been used in numbering the ballots, it would have been more difficult to make erasures. There is no evidence, Mr. President, in the whole 250,000 ballots here, of any erasures of the numbers. If one was going to substitute ballots, every man knows that he could substitute them numbered in ink just as well as he could if they were numbered in pencil.

Now they come forward and say, "But the change was made at the courthouse." That statement was made here yesterday—that ballots were substituted at the courthouse. Is any thoughtful man prepared to accept that suggestion as a proven fact in the case? Does not any thoughtful person know that if substitution of ballots throughout all the courthouses in Alabama in the quietude of the night was proceeding, they would have been substituted in such a way as to comply with the requirements of the law? Could not a ballot numbered in ink be substituted in the quietude of the courthouse, where the contestant said it all took place, just as well as one numbered in pencil could be substituted or one not numbered at all? And if the substitution was being carried on by experts, it would have been done doubtless in a more precise and correct way in conformity with the directory provisions of our statute than could have been done by average men and women serving as election officers possibly for the first time in their lives and without legal training sufficient to pass a civil-service examination upon all the directory provisions of our splendid law.

Mr. President, there are one or two things further to which I desire to call attention before I conclude. Beyond the mere presumption which the law affords as to the correctness of the sworn returns of officials of an election—and an election officer is entitled to the same presumption of truthful and correct returns as is any other official under the law—there is no question, in fact, it is admitted, that the certificates upon which my certificate of election is based were signed in all the boxes in Alabama by Bankhead supporters and Heflin supporters and by Republicans who did not vote for either one of us. In every box in the State of Alabama at the closing of the polls the certificates were posted, and they are here now reposing in the committee room, with not a word of testimony to impeach a single one of them. Instead of impeaching them by testimony, Mr. President, the oral testimony at Birmingham, where the contestant placed upon the witness stand a large number of election officers, shows that every one of them on cross-examination said that the count in his box was honest and that the certificate of the result truly represented the ballots cast in that particular box. Their complaint was about other trivial matters—no impeachment of the returns; no impeachment of the truthful counting of the ballots.

Then would any fair-minded man, acting judicially, say that because of certain irregularities which it is claimed afford an opportunity for fraud, you must presume that fraud did occur?

That, to my mind, Mr. President, is a dangerous doctrine for this great court to establish in this country. That is a standard of moral conduct on the part of the average man or woman serving as election officials and representing both parties that I should greatly regret to see established as a rule and guide to judge the conduct of others. To say that because one had a chance to steal it should be presumed that he did steal, is a strange doctrine to be asserted here upon the floor of the Senate in an effort to secure a decision that you can not tell who was really elected in Alabama.

That was not the only test. The questionnaire was a test, the answers coming from 1,005 boxes in Alabama, nearly half, a complete cross-section of the State, and the answers of those voters being in correspondence with their ballots here. Would any judge weighing the facts, even in a police court, say that you could go into 1,005 boxes, nearly half of them, out of 61 counties in Alabama, and substitute 50,000 to 75,000 votes, as has been alleged here by the contestant, without that fact showing up in the 4,500 answers to the questionnaires sent to the absentee voters?

Any fair, judicially minded investigator of the facts must, I say, recognize that that many ballots could not be substituted in that many boxes without its showing up in the answers of the absentee voters.

Were any other tests made? I am trying to address myself to men who want to get the truth about this transaction, who want to record their votes under the duty, as I conceive it and as the Senator from Delaware [Mr. HASTINGS] has stated that he conceived it, to cast a judicial vote and not a legislative vote.

Were any other tests made that ought to convince any fair-minded man?

Certain suspicious ballots were brought to the attention of the committee. I promptly secured the names from the supervisor of the voters in that list of tightly folded ballots with other suspicious circumstances and sent them to three counties with the request that some notary public be sent to get their affidavits about how they voted. The answers came back, Mr. President. Out of the most suspicious lot of ballots in their appearance that the supervisor could find—because he was requested to do that—the answer came back showing 100 per cent of correctness from every voter in those ballots, whose ballot showed that he voted for me; and then, Mr. President, with a full conviction of honesty and fairness, based upon my knowledge of the spirit which governed the Alabama election, I did not hesitate or halt. I wrote a letter to the chairman of the subcommittee—and you will find it in the hearings—in which I said: "If there are any other suspicious ballots in any box in Alabama that you want to have investigated, I will undertake to investigate them"; and I went further. I said, "If the committee will pay the expense, I will investigate and get the evidence about how everybody in Alabama voted"; and I have not had any reply from the chairman of the subcommittee. Yet Senators gravely stand here and talk about a "presumption of fraud," which leaves them in doubt about whether to brand all of the election officials in Alabama as perjurers, whether they voted for me or voted for the contestant or did not vote at all.

You can not reach any conclusion other than that I received 50,000 majority in Alabama except by branding as corrupt, as conspirators, as perjurers all of the election officers in Alabama. I challenge any man to deny that statement. It is admitted that they signed these certificates, and signed them on the night of the election, and posted them as the law requires; and there they are, under their certificate and oath of office as election managers.

Then I called upon the subcommittee—I am going to conclude in a minute—to check, in those ballot boxes, the tally sheets, one tally sheet kept by a Democratic clerk and one tally sheet kept by an independent or Republican clerk, and mark down the votes, tallying them as the vote was called from the ballot by the election officers. They had two tally sheets. I boldly called upon them to do that, because I had been willing from the beginning to accept any challenge or any test which would show either that I received 50,000 majority or that the election was fraudulent and stolen. I have those tally sheets here, county by county. Anybody who wants to may examine them. I asked them not only to check the tally sheets against the certificate of the results for United States Senator but to check them from United States Senator clear down the State, district, and county ticket. That was done, and here they are, nearly 50 per

cent of them made by clerks who did not vote for me, showing a complete correspondence of the tally sheets in every box in Alabama, not only in the vote for United States Senator but in the vote for every officer upon that ticket.

Will some man in search of truth, will some man who is trying to make a judicial finding upon the facts, point out how there could be a substitution of ballots? No erasure of Heflin's name on votes tallied for him shows over there. It could not be changed on those tally sheets without taking large numbers of tallies off his list. So you would be obliged to conclude that there was a complete substitution of every tally sheet in the State in order to find that the tally sheets that are there now did not originally correspond with the number of votes certified by the election officers.

Is any man going to try to reach that conclusion, acting judicially and in a search for the truth? I think not.

One more test and I am not going to detain you longer. The contestant called upon the subcommittee to furnish him a list showing how every voter in Alabama whose ballot was numbered voted in that senatorial race. His attorney said, and it is in the record, that he regarded that information as the most important matter involved in this case, because it would afford them the information under which they could go back to Alabama and check up with the voters to see whether or not their ballots had been cast as they appear over here in the countingroom. I knew that a compliance with that request would result in the exposure of the secrecy of the ballots. I believed that if the point was brought to the attention of the subcommittee, and they considered the legal question involved, which is the law everywhere, of preserving the secrecy of the ballot, that request might have been denied. But no, Mr. President, I made no objection of any sort to the committee furnishing that information. I was delighted when they furnished it, because I believed, in view of the purpose for which counsel for the contestant stated they wanted the information, that if they would go and check up, that would end entirely this crusade, these tirades against the honor and good name of the election officials and county officials and the men and women of my State.

What happened? That list was furnished, a separate poll list. Some of you Senators have probably noted a sample copy of those poll lists. A separate poll list was printed for every county, 64 counties, by precincts, giving the names of the election officers under the list of names, showing there the number of the ballot they cast. They got that list, as I got a copy of it, some eight months ago. They started to make those lists early in August, not later than the 1st of September, and they were submitted to the parties county by county as they were completed.

Mr. President, what has developed from it? The contestant has asserted time and again that his supporters were so numerous in Alabama that he believed he got a majority of more than 100,000 votes. He has asserted with every appearance of pride what a great interest his supporters took in his campaign, how they fought by the thousands to hear his speeches. He had a complete county organization in every county in Alabama. He got those lists showing how the voters voted for the purpose of sending them down through his precinct organizations and securing the information about the large number of substituted ballots. The committee spent several thousand dollars making up those lists.

What is the situation now? We went down to Birmingham by agreement. I agreed to it, believing that if I did not the witnesses, according to practice, would be brought to Washington. But, accepting any test that anybody wanted to have made, I agree to go down to Birmingham, while Congress was in session, and there, before a commissioner agreed upon between us, give the contestant full opportunity right there, where the witnesses were available, to prove his charges of fraud. Did he do it? No; he did not. Out of 117,000 voters upon those poll lists marked as having voted for me, not counting the unnumbered ballots, he produced evidence of only one, except as to some absentee voters, whose ballots appeared to have been changed, and even that was disputed by one of his neighbors, who said he saw him vote a straight Democratic ticket—one, I say, was the only one traced to the election box out of 117,000 marked ballots.

Who is going to leap to a conclusion, because a pencil was used or because some other irregularity occurred, that we can not tell who was elected in that election? Is every test of the honesty of the count, whose honesty and truthfulness is shown, to be swept aside? Are all the ballots to be swept aside simply to worship at the shrine of legal technicality, a literal compliance with many directory provisions of the election law, practically every one of which involved in this case has specifically been before the supreme court of our State, and in each instance complained of here, the Supreme Court of Alabama has ruled that those provisions were and are directory and do not affect the validity of the count?

I have decisions from 35 States in the brief, holding that in the wisdom of the courts an election will not be set aside because of the ignorance of election officers, because of their omissions and neglects, even of their fraud, unless it is shown that those irregularities affected and changed the result; the will of the people is the great thing to be ascertained.

If the position of the chairman of the subcommittee is correct, wherever a majority of the voters are of one party and the election machinery is in the hands of the other party, what would be the only thing necessary to have a ballot box eliminated from the count? Under the ideas presented here all that would be necessary would be for the election officers of the minority party in a particular precinct to fail to number the ballots, to use a pencil, or fail to fold the ballots, then go to court and say, "Oh, here was an opportunity for fraud. Throw them out."

I submit that that is not consistent with fundamental legal principles. It does not conform to the decisions in 35 States in America, and there are no decisions to the contrary about which I know.

It has been pointed out here that in the same statute upon which my credentials are based, and which is so vigorously commented upon in the minority report because of irregularities, the legislature of Alabama, as a part of the same law, setting up the requirements for numbering and using ink, says those things are directory, and shall not affect the result of the election—not in those words, but it says that nothing but fraud which changed the result of the election shall be ground for setting it aside.

Mr. President, I do not know how many more speeches are to be made on this contest. There are, of course, a great many other questions involved in the case. I stand here holding credentials from a sovereign State of this Union. I am here with as clean credentials, so far as my personal conduct is concerned, as those of any Member of the Senate, and that fact is recognized everywhere. The Nye committee had agents in Alabama for months, and so far as my conduct was concerned, either in securing the nomination or the election, I did nothing which is subject to any kind of criticism. So that the question of the qualifications of the candidate from the standpoint of the manner in which he secured his election is eliminated from this case.

There is one group of Senators here who believe that because of a strained and literal construction of one section of the code, the fixed policy of both parties in Alabama should be stricken down; that Representatives over in the House of Representatives who came here with their names upon the ballot under the same primary under which I came here are not legally there, because their names were not legally upon the ticket, a holding which, if it had extraterritorial effect, would result in disqualifying every officer in Alabama elected upon the Democratic ticket, from governor to constable.

The construction which is sought to be put upon section 612 has not been the policy of our parties. They have acted otherwise over a long period of years in absolutely good faith. It is shown here that the Republicans in Alabama recognized that doctrine. The supreme court of my State

held, when a mandamus under the statute was in question, that a political party had the absolute power to fix any reasonable qualifications for candidates, and stated in the Lett case that the decisions were practically unanimous that party loyalty was a reasonable qualification and within the power of the committee.

The construction of these statutes, the operation of them by the political parties in Alabama, he Supreme Court of Alabama, must be overturned before the Senate can reach the conclusion that my name was not legally upon the ballot.

Mr. President, I know that no one, after looking into the facts in this case, can say that I was not honestly elected, even if the burden were upon me to show that I was.

Mr. McNARY. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Ashurst	Costigan	Hull	Pittman
Austin	Couzens	Johnson	Reed
Bailey	Cutting	Jones	Robinson, Ark.
Bankhead	Dale	Kean	Robinson, Ind.
Barbour	Dickinson	Kendrick	Schall
Barkley	Dill	Keyes	Sheppard
Bingham	Fess	King	Shipstead
Black	Fletcher	La Follette	Shortridge
Blaine	Frazier	Lewis	Smoot
Borah	George	Logan	Steiwer
Bratton	Glass	McGill	Stephens
Broussard	Glenn	McKellar	Thomas, Idaho
Bulkley	Goldsborough	McNary	Thomas, Okla.
Bulow	Gore	Metcalf	Townsend
Byrnes	Hale	Morrison	Trammell
Capper	Harrison	Moses	Tydings
Caraway	Hastings	Neely	Vandenberg
Carey	Hatfield	Norbeck	Wagner
Cohen	Hawes	Norris	Walcott
Connally	Hayden	Nye	Walsh, Mass.
Coolidge	Hebert	Oddie	Watson
Copeland	Howell	Patterson	White

The VICE PRESIDENT. Eighty-eight Senators have answered to their names. A quorum is present.

MISSOURI RIVER BRIDGE AT OMAHA, NEBR.

Mr. HOWELL. Mr. President, from the Committee on Commerce, I report back favorably with amendments the bill (S. 4401) to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Farnam Street, Omaha, Nebr., and I submit a report (No. 604) thereon. I ask unanimous consent for the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

The amendments were, in line 7, after the figures "1930" and the comma, to insert "heretofore extended by an act of Congress approved February 20, 1931," and in line 8, after the word "hereby," to insert the word "further," so as to make the bill read:

Be it enacted, etc., That the times for commencing and completing the construction of a bridge across the Missouri River at or near Farnam Street, Omaha, Nebr., authorized to be built by the Omaha-Council Bluffs Missouri River Bridge Board of Trustees by act of Congress approved June 10, 1930, heretofore extended by an act of Congress approved February 20, 1931, are hereby further extended one and three years, respectively, from June 10, 1932.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

The amendments were agreed to; and the bill was ordered to be engrossed and read a third time.

The bill was read the third time and passed.

AGRICULTURAL RELIEF

Mr. HOWELL. Mr. President, less than two months from now the great political parties will select their standard bearers to present the party records and party promises to the people for another decision at the polls.

If that accounting were made now instead of next November, what would be the record? To answer that question, as the voters will demand that it be answered, we must recall what promises were made to the voters four years ago, and determine whether those promises have been fulfilled.

Four years ago the Republican Party and the Democratic Party made solemn promises to the American farmers. Have these promises been fulfilled? Let us see.

The Republican platform promised agriculture equality with industry. I read from its 1928 platform:

The Republican Party pledges itself to the development and enactment of measures which will place the agricultural interests of America on a basis of economic equality with other industries to insure its prosperity and success.

Now, I read the following extracts from the platform of the Democratic Party:

Producers of crops whose total volume exceeds the needs of the domestic market must continue at a disadvantage until the Government shall intervene as seriously and as effectively in behalf of the farmer as it has intervened in behalf of labor and industry. There is a need of supplemental legislation for the control and orderly handling of agricultural surpluses in order that the price of the surplus may not determine the price of the whole crop. Labor has benefited by collective bargaining and some industries by the tariff; agriculture must be as effectively aided.

The Democratic Party in its 1924 platform pledged its support to such legislation. It now reaffirms that stand and pledges the united efforts of the legislative and executive branches of government, as far as may be controlled by the party, to the immediate enactment of such legislation, and to such other steps as are necessary to place and maintain the purchasing power of farm products and the complete economic equality of agriculture.

Mr. President, as one method to give this equality to agriculture, the Democratic platform pledged the party to an enactment as follows:

We pledge the party to an earnest endeavor to solve this problem of the distribution of the cost of dealing with crop surpluses over the marketed units of the crop whose producers are benefited by such assistance.

This means the equalization-fee plan.

I continue the quotation:

The solution of this problem would avoid Government subsidy to which the Democratic Party has always been opposed. The solution of this problem will be a prime and immediate concern of a Democratic administration.

Mr. President, can anyone seriously contend that these promises have been fulfilled? As a matter of fact, no one will contend that agriculture has been placed on a basis of equality with other industries. I have at hand the April 1 issue of "The Agricultural Situation," published by the United States Department of Agriculture, which shows that the level of farm prices is approximately 60 per cent of the pre-war level, while the level of prices of products purchased by farmers is approximately 120 per cent of the pre-war level, thus giving agriculture a purchasing power of only 50 per cent. The farmer's dollar therefore is worth only 50 cents in exchange for the industrial commodities which he purchases. Is there any equality in this situation?

I call attention further to the fact that this inequality is much worse now than it was in 1928 when these promises of equality were made. This same bulletin of the Department of Agriculture shows that the purchasing power of the farmer's dollar in 1928 was 90 compared with 50 now. In other words, the inequality of agriculture with industry as expressed by the ratio between the two price levels has widened 40 points. It has reached a state that is well-nigh intolerable.

Yet what has Congress done about it? What steps have been taken by this Congress to remedy this situation? Congress has been here nearly five months, with power to ameliorate the situation and remove at least to a degree this inequality, and yet nothing has been done except to hear the pleas of the spokesmen for the farmers beseeching Congress to come to agriculture's relief. Is anything to be done? If so, there is no time to lose. Little more than a month remains of this session. Moreover, if Congress does not act it can not avoid the definite charge that it has not had the will to act. We must not go before the country subject to such an indictment. Something must be done—and done at once.

CALL OF THE ROLL

Mr. McNARY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PATTERSON in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Costigan	Hull	Pittman
Austin	Couzens	Johnson	Reed
Bailey	Cutting	Jones	Robinson, Ark.
Bankhead	Dale	Kean	Robinson, Ind.
Barbour	Dickinson	Kendrick	Schall
Barkley	Dill	Keyes	Sheppard
Bingham	Fess	King	Shipstead
Black	Fletcher	La Follette	Shortridge
Blaine	Frazier	Lewis	Smoot
Borah	George	Logan	Steiwer
Bratton	Glass	McGill	Stephens
Broussard	Glenn	McKellar	Thomas, Idaho
Bulkley	Goldsborough	McNary	Thomas, Okla.
Bulow	Gore	Metcalf	Townsend
Byrnes	Hale	Morrison	Trammell
Capper	Harrison	Moses	Tydings
Caraway	Hastings	Neely	Vandenberg
Carey	Hatfield	Norbeck	Wagner
Cohen	Hawes	Norris	Walcott
Connally	Hayden	Nye	Walsh, Mass.
Coolidge	Hebert	Oddie	Watson
Copeland	Howell	Patterson	White

The VICE PRESIDENT. Eighty-eight Senators have answered to their names. A quorum is present.

ALABAMA SENATORIAL CONTEST

The Senate resumed the consideration of the resolution (S. Res. 199) reported by Mr. GEORGE and Mr. BRATTON from the Committee on Privileges and Elections, as follows:

Resolved, That JOHN H. BANKHEAD is hereby declared to be a duly elected Senator of the United States from the State of Alabama for the term of six years, commencing on the 4th day of March, 1931, and is entitled to a seat as such.

The VICE PRESIDENT. The question is on agreeing to the resolution.

Mr. HASTINGS obtained the floor.

Mr. NORRIS. Mr. President, does the Senator from Delaware particularly desire to speak now?

Mr. HASTINGS. No; I am perfectly willing that the Senator from Nebraska shall proceed, if he desires to do so.

Mr. NORRIS. I thank the Senator.

The VICE PRESIDENT. The Chair recognizes the Senator from Nebraska.

Mr. NORRIS. Mr. President, it is always an unpleasant task that confronts the Members of the Senate when they are compelled to vote on a question like that which is now presented to us. As I look at it, however, such a question goes away beyond any personality. I agree most heartily with the Senator from Alabama [Mr. Bankhead] when he said, in substance, that we ought to pass upon a question of this kind as a judge would pass on it in a court of justice. Personal friendship and personal feeling must be cast aside. I think the question ought to be considered in an absolutely nonpartisan manner. It is one time when consideration of partisanship—even agreeing, for the sake of the argument, that such questions have their places—ought to be eliminated.

The Senate acts in a judicial capacity when it is passing on the right of some one to a seat in the body, if it ever acts in such a capacity. As I look at it, we are sitting as a court—as a supreme court—rendering a judgment that is final, a judgment from which there is no appeal. We must act upon our several responsibilities as members of that court. We are only human and, of course, being human, are liable to err. We know that we will disagree often upon questions of the most vital importance.

As I look at the question, it is similar to the question which the Senate passed upon in the so-called Vare case, from Pennsylvania, and in the Smith case, from Illinois. In those cases it was conceded that Mr. Vare and Mr. Smith had been elected at the general election. We rejected them, however, on account of irregularities occurring in the primaries. The legal question was then raised whether we had any right to consider the primaries. It was claimed, on the one hand, that the election was final unless there was fraud in the election itself. It was said that, even conceding the irregularities in the primaries and the use of immense sums of money, all those things were exposed before the election; that the electorate knew all about them; and that, in face of the facts, they elected Mr. Smith and Mr. Vare.

I am not disputing but that there is some reason in that argument; and if we can not go back to the primary, that argument must prevail; but some of us believed that the primary, regardless of what may have been said by courts, was an integral part of the election, and we took judicial notice of the fact that in Pennsylvania and in Illinois the primary was the real deciding contest, more important than the election itself. So, as we looked at it, at least, it was no argument to say that Mr. Vare was elected in Pennsylvania, because we said, "If you control the primary in Pennsylvania, you have thereby controlled the election; and it will take a political revolution in a State like Pennsylvania to overthrow the result of the primary." We relied upon section 5, article 1 of the Constitution, which reads as follows:

Each House shall be the judge of the elections, returns, and qualifications of its own Members.

That provision of the Constitution of the United States means that the Senate is the judge—the sole judge, the final judge—of the qualifications of every man who seeks admittance into this Chamber as a Member. So we claimed not only have we the right but we are confronted with the responsibility to act. If we want to keep the Senate above suspicion, if we want a Senate that is untrammeled and uncoerced by outside influences, if we want the Senate to be composed of Members who are under no obligations outside of the Senate so far as their duties here are concerned, then it is up to us to face that responsibility and to act accordingly.

I believed then and I believe now that our position was perfectly logical; and not only that, but that we would have been derelict in our duty had we not faced the responsibility. We must not forget, Mr. President, that a government such as ours is supposed to be founded upon the consent of the governed, and that if we coerce the electorate, if we wrongfully influence the voter, no matter what the means or the methods may be, we are striking at the very foundation of free government. It was no answer to say that Mr. Vare and Mr. Smith were honest, upright, patriotic men. Even if we should concede, for the sake of the argument, that if they had been seated their official duties and work would have been untainted and unquestioned, we were, nevertheless, as we looked at it, establishing a precedent under which, if carried to its logical conclusion, the highest legislative body in the Government would have gradually drifted to anarchy; and if the theory were carried to its logical conclusion, our Government would necessarily have to fail.

So we are confronted here with a fundamental principle of free government. It is not my intention to cast any aspersions upon any of the candidates in this contest, or even to suggest that the committee that has had charge of the contest has been improperly influenced. I want to concede, to begin with, that so far as I know everybody has been acting in good faith.

Being a supreme court in matters of this kind, we can not escape the responsibility of our decision. We ought, I think, to pay due respect to the decisions of our State courts and our Federal courts. We ought particularly to follow, if we can, the courts of Alabama so far as the election machinery of that State is concerned. Nevertheless, not one of those decisions is conclusive upon our action or is binding upon us.

They ought to be persuasive; we ought to follow them, if we can; we ought to place ourselves in the same position as though we were members of the Supreme Court of the United States or of a State court, where presented in the argument perhaps there would be conflicting decisions, and all of them could not be followed; or if there were only one line of decisions, if we thought it were violative of the fundamental principles of our Government, if it were not applicable to the present day and present civilization, we ought not to hesitate to overrule it, because all judges, as well as all men, are human; and if no decision had ever been modified, if no decision of any court had ever been overruled,

we should be a century behind where we are now in our position in the civilized world.

If there were no legislatures, and the law were made only by decisions of the courts, yet as human progress goes onward, as civilization increases, as intelligence and education of men and women become better and more universal, we will find that the decisions of one age will not apply to the civilization of another. That is the history of our common law as it has grown up through many years of decisions; but the decision of 100 years ago may not apply to the civilization of to-day. The law that would rule in a country that was unorganized, uneducated, uncivilized, would not be sufficient if applied to a high state of civilization.

With these preliminary remarks, Mr. President, I desire to consider as nearly as I can, and as well as I am able, what to me is the vital legal proposition involved in this contest; and it is not without difficulty. I concede, to begin with, that there is room for difference of belief and of judgment and of decision. Nevertheless, I believe that as I proceed I shall be able to convince those who will follow me that the weight of authority, and the reason for the judgment that I am going to reach, come from a proper construction in the light of the present day and age of the decisions that have been rendered even in Alabama.

Section 612 of the Code of Alabama reads as follows. It is headed:

612. (521) Who may vote in the primary election: All persons who are qualified electors under the general election laws of this State shall have the right to participate in such primary elections, subject to such political or other qualifications as may be prescribed by the State executive committee or governing body of such political party for its candidate.

Remember, "for its candidate."

Reading again from the same section:

The State executive committee may delegate to the several county executive committees the power to prescribe the qualifications of voters in any primary election for the nomination of candidates for offices to be filled by the vote of a single county.

Mr. HASTINGS. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Delaware?

Mr. NORRIS. I yield.

Mr. HASTINGS. I should like to call the attention of the Senator to the fact that those words, "for its candidate," were written into the law in the year 1919, so as to make certain that the primary could be held at public expense.

Mr. NORRIS. Yes. I thank the Senator for his suggestion.

Mr. BORAH. Mr. President, may I ask the Senator a question?

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Idaho?

Mr. NORRIS. Yes.

Mr. BORAH. I should like to ask the Senator from Delaware what difference that makes as to the construction of the statute.

Mr. HASTINGS. The words "for its candidate" must have been put in there for some purpose, and that is the reason why I called attention to the matter.

Mr. DILL. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Washington?

Mr. NORRIS. I do.

Mr. DILL. Was not that purpose so that the primary expenses would be paid at public expense?

Mr. NORRIS. Section 672 of the Alabama Code reads as follows:

672. Assessments and qualifications of candidates; how fixed: Any executive committee of a party may fix assessments or other qualifications as it may deem necessary for persons desiring to become candidates for nomination to office at a primary election; but no assessment shall be made by a committee for any county having by the last or a future census a population of less than 45,000, and in larger counties such assessment shall not exceed 2 per cent of one year's emolument of the office sought, and for unremunerative or party office it shall not exceed $10 for one filled by the vote of a single county, and if filled by the vote of a subdivision greater than one county not over $20, and if filled by the vote of the whole State it shall not exceed $50.

I have read the entire section, but, of course, only a small part of it applies to this particular case. I want to read that part again:

Any executive committee of a party may fix assessments or other qualifications as it may deem necessary for persons desiring to become candidates—

This applies to candidates. Remember, the section I read before refers to persons who can vote, and that section says:

All persons who are qualified electors under the general election laws of this State shall have the right to participate in such primary elections, subject to such political or other qualifications as may be prescribed by the State executive committee or governing body of such political party for its candidate.

In pursuance of that law the Democratic executive committee adopted the following regulation:

Be it resolved—

1. That a primary election be, and the same is hereby, called to be held at the several polling places in this State, at the hours fixed by law, on the second Tuesday in August, 1930, for the nomination of Democratic candidates for offices to be filled in the general election next succeeding and that the candidates of the Democratic Party for all State, district, circuit, Federal, and county offices to be filled in the general election to be held in November, 1930, be nominated in the primary election to be held on the second Tuesday in August, 1930, under the provisions of the statutes of Alabama governing primary elections.

2. That the following persons shall be entitled to vote in said election and none other, namely:

Qualified white electors of this State who believe in the principles of the Democratic Party and who agree and bind themselves by participating in said primary to abide by the results of said primary election, and to support the nominees of the Democratic Party therein.

3. The following persons, and none other, shall be eligible to be candidates for nomination in this primary, namely:

Qualified white electors who possess the qualifications fixed by law by the respective offices for which they are candidates for nomination: *Provided, however,* That no person shall become a candidate for any State, district, Federal, or circuit office or have his or her name printed upon the Democratic ballot in the primary election to be held on the 12th day of August, 1930, if such person either voted a Republican presidential ticket in November, 1928, or openly or publicly opposed the election of the nominees, or either of them, of the Democratic convention held at Houston, Tex., in 1928, or who opposed the election of Democratic electors for President or Vice President in November, 1928. Such proposed candidates shall also be required to pay the assessment fixed by this committee on or before the date limited for paying such assessment and for the filing of declaration of their candidacy.

4. That candidates for nomination for all of said offices, except as herein provided for, shall within such time as may be specified by this committee file with the chairman of the State Democratic executive committee a declaration of candidacy as follows:

I hereby declare myself to be a candidate for the Democratic nomination in the primary election to be held on the second Tuesday of August, 1930, for the office of ———.

I hereby certify that I did not vote a Republican presidential ticket in November, 1928, or openly and publicly oppose the election of the nominees of the Democratic Party or either of them, and that I did not oppose the election of the Democratic electors for President or Vice President in November, 1928.

I further agree to abide by the result of the primary election in which I am a candidate and to support the nominee of the Democratic Party in such election. I further certify that I am a qualified white elector of the State of Alabama and possess qualifications fixed by law for the office for which I am a candidate.

It will be observed that this committee, by these rules and regulations, fixed a different qualification for a candidate at that primary from that which they fixed for an elector at that primary. There can be no dispute about that. In other words, the elector, the person who wanted to vote, had to have certain qualifications; but the candidate had to have certain other qualifications, different from those of the elector.

It was contended that under the law which I have quoted the committee had no authority to fix one qualification for the voter in the primary and a different qualification for the candidate. That was the question at issue; and an attempt was made to take it into court and get a judicial construction of it. I do not care now to reread these sections; but Senators, I think, will have no difficulty in reaching the conclusion that there are two sets of qualifications in the regulations.

I do not believe that a fair construction of the statute will lead to any other conclusion than that the committee was by the law deprived of the right of prescribing different qualifications for candidates and for electors.

An action was commenced by Mr. Wilkinson, who was Senator Heflin's attorney. That action was an application for an injunction restraining the officials of a county from paying the expenses of the primary of 1930, alleging that the primary was illegal and void. It was commenced against the proper officials of the county. The circuit court before which the action was commenced denied the plantiff's application by sustaining a demurrer and dismissing the case, on the ground that the court had no jurisdiction.

The case went to the supreme court, was argued there, and the supreme court affirmed the decision of the lower court, entirely and solely on the ground that the court below had no jurisdiction. Even though the attorneys for both sides asked the court to consider the merits, the majority of the court refused to do so, saying that if they had no jurisdiction, they had no right to consider the case, and that they would examine that question first.

They went at length into a discussion of the law and the precedents to determine whether they had jurisdiction to issue an injunction in this kind of a case, and they decided that, under the law of Alabama, they had no such right. Hence they never touched the merits of the question. They did not refer to them anywhere, in any way, except to say they had been asked by both sides to pass upon the merits, but that they declined to do so because they thought they had no jurisdiction, and that it would be useless for them to go into the merits. So that, as far as the majority of the court was concerned, they never considered any of the questions which are involved here before us. They never considered the question as to whether this was a lawful primary or an illegal primary, that being the only question involved, as far as the merits of the case were concerned.

One member of the court, Judge Thomas, dissented, did not agree with a majority of the court; but found, upon an examination, that the court did have jurisdiction, and hence, finding that the court did have jurisdiction, he went into the merits of the case. So that while the discussion of the merits took place entirely in this so-called dissenting opinion, there is nothing in the dissenting opinion, so far as this case before us is concerned, that was questioned in any degree by any other member of the court in that case.

Judge Thomas, after finding that the court had jurisdiction, delivered quite an elaborate opinion. A good deal of it is taken up with the question of jurisdiction. He discusses the jurisdictional question at greater length than the majority of the court does and reaches a different conclusion, as I have said.

Right at the beginning Judge Thomas said:

> The importance of the question presented for decision justifies a further expression of opinion to that which has been said. The matter would have been simple had the State executive committee only followed the clearly expressed mandate of sections 612 and 672 of the code, and prescribed like qualifications for electors and candidates. The duty of this court in the premises is merely to follow the law and declare its application upon the resolutions as to the rights of qualified electors and candidates.

After discussing the jurisdictional question, and coming to the merits of the case, Judge Thomas said, after reviewing the facts as I have, quoting the law:

> Certain corollaries may be deduced from the statutes and decisions as: (1) That primary elections held in this State at public expense must be called and held in substantial compliance with organic and statutory law. (2) That executive committees of political parties have the right to declare political or other qualifications and tests of loyalty and affiliation for electors and candidates alike, and not different or double qualifications.

Further on the judge said:

> (4) It is the legislative intent that, as to affiliation and party loyalty, all electors may become candidates, and all candidates may be electors. (5) That it is the purpose and reasonable interpretation of sections 612, 672 of the code—

The ones I have read—

> as a part of that important system, when construed together, not to authorize a test or qualification by the committee that was inapt, unreasonable, and arbitrary to party loyalty and affiliation as to a candidate that is not likewise applied to an elector, or vice versa.

Mr. HATFIELD. Mr. President, that was a dissenting opinion, was it not?

Mr. NORRIS. Yes. It is the only opinion, however, in this case passing upon the merits presented to us. All the other judges held that they had no jurisdiction, without considering the merits. I pause longer to say that in this case no judge, by intimation or express terms or otherwise, has found any fault with the judgment of Judge Thomas in his dissenting opinion. So that at least we must reach the conclusion that, as far as the Supreme Court of Alabama is concerned, but one judge has expressed an opinion upon the merits or the legality of the primary, and that was the judge from whose opinion I am now reading.

Mr. BLAINE. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. BLAINE. Does the statement the Senator just made apply only to the Wilkinson case, or does it apply also to the Lett against Dennis case?

Mr. NORRIS. The Lett case, I think, does not controvert the opinion rendered by the judge in this case, although there is a difference of opinion as to that. I have not yet come to the Lett case.

Mr. BLAINE. The Senator expects to discuss that case?

Mr. NORRIS. Yes; somewhat.

Mr. BLAINE. Judge Thomas concurred with the majority opinion in the Lett case.

Mr. NORRIS. Yes.

Mr. BLAINE. In which the court held, in effect, that the executive committee of a party could fix the qualifications of a candidate.

Mr. NORRIS. Yes. I prefer not to go into that until I get to it.

Mr. BLAINE. I am not asking the Senator to go into it now.

Mr. NORRIS. I contend that there is nothing in the Lett case which conflicts with the dissenting opinion in the Wilkinson case. Let me read further:

> The Constitution leaves the matter of domestic regulation and control to the legislature, with the power of reasonable regulation, and the legislature left it to the governing body of the party, after expressly declaring that electors and candidates be subject to and may participate in the primary under the same and like political or other qualifications. (7) The only interpretation of sections 612, 672, code, that is reasonable is that contained in its plain and simple language—that the same tests of party loyalty and affiliation be prescribed for party electors and for party candidates. This uniformity the resolution in question failed to provide as it should have done. (8) The legislature required this discharge of duty of the party's committee, if it decides, and is to hold a party primary at public expense. (9) The law exacts of this court the construction of the law as duly enacted, and I conceive it my duty to do so as to these statutes and the resolution in question.

Further on he said:

> It follows from this material departure in the resolution from the requirements of law that the primary election called is not the kind of a primary that may be held under the law and at public expense in the State of Alabama. The right of payment therefor from public funds is a matter of public concern that may be duly challenged by the taxpayer's bill on the ground of failure in material respects to comply with the statute in the primary called.

Mr. President, up to that time, as far as any judicial opinion has been expressed by the Supreme Court of Alabama, or any other court in Alabama, so far as I know, we have only the opinion of this judge, who, in so many words, says that the primary was null and void under the law of Alabama.

The Senator from Wisconsin [Mr. BLAINE] refers to what is known as the Lett case, and it has been referred to by other Senators. I concede, to begin with, that there is some difficulty in harmonizing the Lett case with the case from which I have been reading, although it in no respect refers to this decision, and the opinion in the Lett case was concurred in by the judge who wrote the opinion from which I have just been reading, and who said, in the little note at the end, that he concurred in the result. He said in so many words that he concurred in the result, and then referred to the case from which I have been reading as a place where

the reader could find his opinion upon the law expressed at length.

The Lett case was a quarrel which went up from the Republican Party. Not many of us knew there was a Republican Party down in Alabama, but it seems there was one. I suppose there are two or three officers down there holding Federal jobs, anyway. I read a statement of the case:

The Chilton County Republican executive committee called a primary election to be held "with the State primary election on August 12, 1930." In the call resolution all qualified voters, regardless of past party affiliations and who believe in the principles of the Republican Party and pledge themselves to support the nominees of such party in the primary, were invited to participate. But as to one desiring to become a candidate, there was an additional requirement that he state "under oath how he or she voted in the last general election of 1928—that is, whether said proposed candidate supported the Republican ticket or the Democratic ticket or voted a split ticket." This oath was required to be filed with the chairman and kept on file open to inspection, as well as published in a newspaper published in said county.

I wish Senators would remember that because of one construction put upon the action of the court in this case and of the Republican committee, as already alluded to by the Senator from Delaware. Senators will notice that there is nothing in this requirement to the effect that one who did not support the ticket could not become a candidate, but in order to become a candidate he must take an oath, and that oath must be filed and published in the newspapers. So it is fair to say, I think, that if the candidate who refused to take the oath had taken the oath, he would have had no further difficulty. In other words, the object of this was to acquaint the voter with the partisan activities of the candidate to show whether he had always been loyal, always supported the ticket, or whether he had not, so as to let the partisan Republican who wanted to vote against any man who had not always during his lifetime supported the straight ticket, yellow dog and all, have the information upon which he could act. But this man refused to file the oath and then commenced a mandamus action. The court said:

M. F. Lett desired to become a candidate in said primary for the office of member of the board of education of Chilton County, and complied with all requirements of said executive committee as to such candidacy save one. He declined to make the oath above outlined. For his declination to conform with this requirement the chairman refused to certify his name as a candidate for said office, and this mandamus proceeding was resorted to for the purpose of compelling such certification.

This man was a candidate. The court denied the mandamus action. I want to invite attention to what the judge said who wrote the opinion. The opinion was written by Judge Gardner, of the Alabama Supreme Court:

We have concluded the standard of qualification for the candidate is properly and legally fixed by the resolution, and petitioner's argument would but result in an enlargement by operation of law of the qualification of those not candidates. With this he is not concerned, and is therefore in no position to question, as it would not affect the requirements of the resolution as to himself. His rights are to be determined by the fixed standard as to candidates, and the only statutory provision applicable thereto is section 672 of the code.

In other words, the court declined to take up the other section of the code which requires the committee to fix the same qualifications for candidates that it does for electors, and said to this man who applied for a mandamus writ, "You are in court as a candidate claiming a writ as a candidate. You are claiming under this very statute. It is nothing to you as to what the other section referred to in the other case says."

Judge Thomas, the judge who wrote the first opinion from which I have quoted, added this to the opinion:

I concur in much that Judge Gardner has said, yet I prefer to limit my concurrence to the result. I have heretofore adverted to the construction that should be given or the meaning of sections 612, 672 of the code, and find no necessity to repeat the same.

Then he refers to the case from which I first read. So the judge who wrote the first dissenting opinion evidently, at least, reached the conclusion that there was no conflict between his opinion and the opinion of the court in the Lett case, the last one from which I have read.

Now, Mr. President and Senators, if there be, as I concede there is, among lawyers here who are just as conscientious about it as I am, some disagreement as to whether the cases are at all in conflict, then it is up to us, it seems to me, as the supreme and final court, to follow, if we want to follow, as we ought to follow as nearly as we can, the decisions of the Alabama court, the course that seems to us under all the circumstances reasonable and proper. When we come to that, what kind of authority is given by the Alabama statute to the executive committee of a political party? To my mind the statute gives to the party committee, the executive committee of a political party, not holding any office, not acting under any oath of office, being responsible not to the State, but responsible only to a political party, the absolute right, when we follow it down to its logical conclusion, and the absolute power to say to the voters of Alabama who their candidate shall be, and to deprive the electorate, if they so wish, of the right to act and to vote freely and openly for candidates of their choice.

We will recognize here, I take it, that the Democratic nomination in Alabama is equivalent to election, the same as we recognized in the Vare case that the Republican nomination in Pennsylvania was equivalent to election. So when we have three men selected not by any official and not by anyone who holds an office or who is responsible to the people or the State or the county and who themselves are likewise not responsible to any official or organization or State or district or county, and when we give to that kind of a committee the absolute authority to say who can be a candidate and who can not, we have made a thrust at the very cornerstone of representative government. Carried to its logical conclusion, if spread over the country and this authority exercised, it would mean that our Republic would disappear from the earth and upon its ruins would stand a monarchy, a government not responsible to the people, a government absolutely contrary to the one which we cherish and which we claim is one that exists by virtue of the consent and approval of the people; because by that action we would have taken away from the people the right to select their own rulers. There is no doubt about that. There can be no doubt about it.

That same committee of three men, if they wanted to keep anyone off the ballot, no matter who he might be, under that authority could find some reason to do it. They could compel the man to make affidavit, and refuse him the right to run for office if he had declined to vote for a road supervisor. They could put any other qualification of that kind upon him. Their power would be practically unlimited in that respect, and they could absolutely deprive the people of an opportunity to vote in a Democratic primary for anyone that the committee desired to keep out of the primary. I do not believe anybody can dispute that.

It is conceded, I think, that a party has the right to regulate its affairs within reasonable limits. I have an idea that the line of reason in Alabama would be extended much further than it is in some of the States. But when we say to a committee in a free Republic, an unauthorized committee—I mean a committee holding no office, holding no authority from the people—when we confer upon that kind of a committee the right to say who can be candidates and who can not, we are upon the verge of the destruction of our democratic form of government.

Mr. GEORGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Georgia?

Mr. NORRIS. I yield.

Mr. GEORGE. Let me remind the Senator that the committee is elected by the people in the same primary election, and the committee, until the next primary is held, of course, is comprised of the actual officers in charge of party affairs; but this committee is elected by the people voting in the primary at each election.

Mr. NORRIS. And that same committee, I take it, though they have not done it here, would have authority to fix the qualifications of anybody who ran as successors of the members of the committee. If they wanted to per-

petuate themselves or their kind, they could prescribe qualifications that would shut out of the primary anybody who was competing for the position of committeeman, I take it, under this statute.

Mr. GEORGE. I want to make this suggestion to the Senator. If he can imagine any reasonable qualification which could be prescribed that would admit only the present committeemen to run to succeed themselves, I would be very glad to have the Senator do it.

Mr. NORRIS. I think I can easily imagine it. I remember in one of our great cities where a Republican committee was organized about 10 or 15 or 20 years prior to the time of which I speak, and there never had been anybody taken off the committee, nobody ever added to it except by the committee itself. It was finally discovered that they were selecting delegates to the State convention regularly without the intervention of the county convention or a primary. This committee, if they wanted to do what the Senator thinks never would happen, if they wanted to perpetuate themselves in office, could see that the candidates whom they would admit as candidates were men for whom nobody would vote. They could go to the jails and the prisons and get men there to become candidates and prescribe rules that would keep out all decent men.

Mr. GEORGE. I want to say to the Senator that I do not conceive that under the Alabama statute or any other statute any committee could prescribe other than a reasonable regulation, and therefore I wanted the Senator to understand my position on this point.

Mr. NORRIS. I am glad to get it. I recognize that some of the Senator's colleagues on the committee take the same attitude; in other words, that under this law the rule would have to be reasonable. Let us concede that for the sake of argument and see where it leads us. I propounded to the Senator from New Mexico [Mr. BRATTON] this proposition when he was arguing the question. I said, "Suppose the committee established a rule that would prohibit anybody from being a candidate who has not voted for every Democratic candidate in the preceding election, including road overseer, and a man would say, 'I voted for everybody from President down, but when I got down to road overseer I did not vote for him.' Suppose they fixed a qualification that would prevent that kind of a man from becoming a candidate in the primary, would that be reasonable?"

The Senator from New Mexico said he thought it would, but some other people would think it would be unreasonable probably. So we are approaching the field of no limitation. We would come to the proposition of what is reasonable and what is unreasonable. To my mind the whole thing is unreasonable.

Mr. DILL. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Washington?

Mr. NORRIS. I yield.

Mr. DILL. I want to ask the Senator whether he bases his contention that the primary is illegal, and therefore that Mr. Bankhead could not be seated, upon the law of Alabama or upon the action of the committee under the law?

Mr. NORRIS. The action of the committee under the law I take it would of course be a part of the law. I think the action of the committee, as the judge in Alabama said, was null and void and hence the primary was illegal.

Mr. DILL. The Senator has been arguing against the law.

Mr. NORRIS. I know I have.

Mr. DILL. And I wanted to get the Senator's view, whether he thought that law made the primary illegal?

Mr. NORRIS. No; I am not trying to convey that idea. This is the conclusion I want to draw, that the law is such an unreasonable one that we ought, as judges here, to construe it strictly; in other words, we ought not to be lenient and engraft on it, by construction, additional powers that are not in it, because I think the law is already unreasonable.

Mr. DILL. Does not the Senator think that is stretching the right of Senators in determining the qualifications of candidates a long way, especially when taken in the light of the other provisions of the Constitution which give each State the right to select its Senators and to have them here as its representatives?

Mr. NORRIS. That same argument was made in the Vare case; it has been made in every contested-election case where a man has been put out of the Senate. It was said that the Constitution provides that each State is entitled to two Senators. That is true; but the courts have held that if by their own acts or by their own laws States disqualify themselves it is up to them and it is not the fault of the Senate.

Mr. DILL. But does not the Senator see the difference between the action of a committee as the result of a law, which he thinks is bad, and the moral taint that attaches to the use of sums of money so great as to constitute an act in itself corrupt?

Mr. NORRIS. Mr. President, in the Vare case there was no evidence that anybody had been personally bribed to vote for Mr. Vare; there was no evidence in the Smith case that anybody had actually sold his vote to Smith; but the Senate assumed that the expenditure of the vast sums of money involved was corrupt in itself, and disqualified the candidate who was the beneficiary of such expenditure. That was our judgment, as I understand. There was no direct proof of the bribing of individuals or anything of that kind. We assumed, as I think we ought to and as I think we had to, that the expenditure of such vast sums of money was in itself a corruption of the electorate and disqualified the man for whom the money was spent; hence we held he could not be seated.

Mr. GEORGE. Mr. President, on that point——

Mr. NORRIS. Allow me to finish answering the question, and then I shall yield to the Senator from Georgia.

Mr. GEORGE. I merely wanted to ask the Senator then if in both cases we did not have in mind moral corruption, not legal corruption.

Mr. NORRIS. Nobody that I know of said there was legal corruption, because in order to convict John Doe of selling his vote or John Smith of buying a vote there would have to be concrete evidence of that concrete fact.

Mr. GEORGE. The Senator from Nebraska is a very able and a very fair Senator, and I want to ask him the direct question if we did not proceed in the Smith and Vare cases on the distinct premise that there was moral corruption involved and necessarily inferable from the use of money?

Mr. NORRIS. I think that would be a proper conclusion; I do not doubt that at all.

Mr. GEORGE. I merely wanted to suggest that to the Senator in order to see if we were in agreement on it.

Mr. NORRIS. I have not any doubt whatever about it.

I want to answer, if I have not forgotten it, the question propounded by the Senator from Washington [Mr. DILL], whether I can see any difference between this kind of a primary and the kind of primary that nominated Mr. Vare. I want to say that, in my judgment, the kind of primary which the Alabama law provides the State committee could hold—whether it was done in this case or not I am not saying—would lead to the condition where the corruption made possible would be worse than that arising from the spending of money.

What would happen? The tyrant who gets upon the throne may, even during his life, be the best man on earth. His successor, however, will grasp a little more power, and a little more will be grasped by the next man, until tyranny follows. It is a principle recognized by all students of government that a democracy sometimes is expensive and inefficient because it makes mistakes, and that, perhaps, the most efficient government in the world is an absolute monarchy. History shows, however, and our knowledge of human nature convinces us, that in time an absolute monarchy becomes corrupt. I am talking now about what would happen if there were continued to be carried on the kind of primary which may be held in Alabama under the laws of that State. The first three men selected might be perfectly pure. I do not know about the Alabama State committee; so far as I know they were all right; I am not making any personal

charge against them. The next man would be a little worse, and the next would take advantage to keep somebody out. Eventually we should have an autocracy that would be worse than a government such as would be the result of the buying of votes and the expenditure of millions of dollars, as was done in the primaries in Pennsylvania and in Illinois. We would reach the same point. It would be reached by the use of money in the one case, and in the other, while the money would probably be there it would be money that would control a committee, almost invisible in its power, almost unlimited in its influence.

So I feel, when we have to consider that kind of a law and that kind of a primary, that we are justified in being technical, if we have an opportunity to do so, and saying that by no construction will we reach out and give this kind of a committee more power, because eventually it will mean destruction, just as surely as the sun rises in the East.

Mr. President, there is a great difference of opinion about party loyalty. I am not criticizing the man who does not agree with me; it will be considered probably by most people that I am extreme on one side of that question, and perhaps I am. For argument's sake, let us admit it. I do concede that a party has the right, within reasonable limitations, to regulate itself; but I do not believe any party ought to have the power to do what the Alabama law gives the committee the right there to do. In other words, that is a State where a Democratic nomination means the election; it is the election; it is the real test as to who is going to be Senator or governor or Member of the House of Representatives, and so on down through the list. It is the primary that settles the question; and if one controls the primary he thereby, through that instrumentality, controls the election.

Take this case. It was generally stated in the newspapers, although it is claimed in defense now that similar action was taken previously as affecting other candidates as well as Heflin, it was spread all over the country at the time this happened that the committee in Alabama had read Senator Heflin out of the Democratic Party in Alabama; that they were not going to let him run; and that is what they did by this regulation. To my mind, it is no defense to say that they did the same thing with some other candidate in 1922 or in 1926. It shows that they are traveling along. The next regulation they make will probably require a man to swear that he not only supported the Democratic ticket from President to road overseer at the last presidential election but that he did so four years before that time, and then four years prior to that time; and the next one will provide that in order to be a candidate one's father must have belonged to the Democratic Party. There is not any limit to it. And such a regulation would be more reasonable than one providing that a person could not run if he had not voted for road overseer on the Democratic ticket. To my mind, it is perfectly foolish to say that a man ought to be kept out of any particular party because he did not vote for road overseer or assessor or tax collector or candidate for any other office on a certain ticket. That is carrying it to the extreme.

Is there any Senator who has been here during the last six years who doubts for a moment that Senator Heflin is a Democrat? There is not a Senator here who doubts it. Most of us on this side did not agree with him at all; he was a bitter partisan Democrat; but from a party standpoint he was as good a Democrat as there was in the United States. He has fought Democratic battles all over the United States, and the Democrats were glad to get him to assist them; but, for some reason, the machine did not want him to stay in the Senate, and so they had the committee in Alabama adopt a resolution providing that nobody could be a candidate in the Democratic primary in Alabama unless he supported the Democratic candidate for President at the last election.

Mr. President, speaking now in rather general terms, I think it is appropriate to say here that according to my notion—and I believe the country will come to it some day—there is only one way to settle the party affiliation of an individual, and that is to take his own statement. Why should any man who has been a Republican all his life not be able, if he wants to, to go over into the Democratic Party to-morrow? What happens in the elections? Both parties go out and plead with the independent voters to vote their ticket, to vote for their candidate. If they are practicing what they preach, if they want to be consistent, they ought to say down in Alabama that no man who can not show that he has been a Democrat and his father before him a Democrat, and that he is going to be a Democrat as long as he lives, shall vote for Democratic candidates.

It is to the independent voter of this country that we owe every step of progress which we have ever made. What would the contention of the other side lead us to? What would be the use of having candidates and primaries? None whatever. All we would have to do would be to hold an election and have on the official ballot the designation "Democratic ticket," "Republican ticket," and any other ticket that might want to get on the ballot, the citizen to vote one or the other; and when all was over, if a majority of people had voted for the Democratic ticket, then let the Democratic committee select the Democratic officers. Why is not that just the same? Why is not that logical? Why is not that what we are coming to if no man dare scratch his ticket without being deprived of one of the sacred rights of citizenship?

I want to say to you, Mr. President, that the doctrine that a man ought to be punished because he will not vote a "straight" ticket is undemocratic; it is monarchial; it means, in the end, the destruction of human liberty, and you can not get away from it.

We have in the White House a man who, while holding an office under a Democratic President, and campaigning for the election of Democratic officials all over the country, almost overnight went over into the Republican Party. Did he not have a right to do that? Has anybody questioned it? Would you deprive him of his right to vote because he did it? If the election laws were in the hands of a partisan committee, he would not have been allowed to vote. He would not have been allowed to become a candidate. As one of my colleagues says, he could not have become the great leader that he has become. He could not have led us into the bright field and fortunate condition of universal happiness and prosperity as he has. [Laughter.]

Mr. President, the evils of this party spirit are not imaginary. They are real. Great men before our time have been impressed with them. I want to read you what George Washington said, not when he was running for office but in the maturity of his age, after our country had been founded, after the Constitution had been adopted, after he had served for eight years as President of the United States, in the maturity of his experience. I want to read you what he said in that memorable Farewell Address to the American people about the spirit of party. He said:

> I have already intimated to you the danger of parties in the State, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party generally.
>
> This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness and is truly their worst enemy.

He is speaking of the party spirit.

> The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual, and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.
>
> Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight), the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.
>
> It serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill-founded

jealousies and false alarms; kindles the animosity of one part against another; foments occasional riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the Government itself through the channels of party passion. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This within certain limits is probably true; and in governments of a monarchical cast patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency it is certain there will always be enough of that spirit for every salutary purpose; and there being constant danger of excess, the effort ought to be by force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume.

Mr. President, I believe that if our Government is to be perpetuated and continued, the words of George Washington, the Father of Our Country, must be heeded, not only in one section of the country but in all sections of the country.

When any State undertakes to delegate the powers of government to an unofficial committee, moved by party considerations, controlled by all the influences that we know control parties, we ought to hesitate; we ought to stop, to look, and to listen, and see if there is not danger just ahead of us. We ought to see if this kind of government, perpetuated and continued, will not ultimately mean just what Washington said would happen unless we took heed.

Mr. SHIPSTEAD. Mr. President, I should like to ask the Senator from Nebraska a question.

First, I desire to state that I agree with everything the Senator has said about this law of Alabama. I think it is repugnant to every principle of the American system of government. The Senator is entitled to the thanks of the American people for his pillory of the party spirit. However, I find in the Constitution this provision:

The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations.

I should like to ask the Senator, since he believes that this law is repugnant to American institutions, as I also believe it is, whether he thinks that the State has the right by itself to enact legislation providing for primary elections in this manner.

Mr. NORRIS. Mr. President, in my judgment, the question asked me by the Senator is not involved. I am saying that under the law of Alabama itself, taking it for granted, taking the law as it exists—or, rather, as it existed at the time the primary was held, because I understand it has been changed since—taking the law as it existed then, and the best judgment of the Alabama courts, that primary was null and void. So we are not compelled even to say that we would set aside the law.

I submitted my argument on the general proposition for the purpose of convincing the Senate—and I hope all those who may hear or read what I have said—that we are justified, because of that law being unreasonable, in weighing any doubt against the legality of this primary. I think under the decisions of the Alabama courts we can properly say that it was null and void; and our authority comes from the section of the Constitution which I read, which says that we are the sole judges of the qualifications of men who come here to become Members of the Senate. We can say, "If you have obtained your election"—and that is what it means in Alabama—"by virtue of a primary so unreasonable, so unjust as to have been declared null and void by your own court, we will not admit you. We claim the right to pass on those qualifications." And when the Senator refers to the provision of the Constitution which says that the States shall hold elections, and so forth, I should like to cite him also to the provision of the Constitution which says that the Federal Government shall guarantee to every State a republican form of government.

We are not confronted now with the necessity of nullifying the Alabama law. It has been nullified by the Democratic Party in Alabama already.

Mr. GEORGE. Mr. President, I have been very much interested in the statement of the able Senator from Nebraska; and in a great many respects there is no material difference between the Senator and myself upon this important question.

The evils of the party system and excess party spirit I am free to concede. The advisability of the resolution calling the primary, if authorized by law, I am free to question. I do not assume, however, that I have authority to suggest or to attempt to regulate the primary elections of a sister State. The question is not whether we are here considering a wise party policy, but whether the candidate who comes here out of the primary, through the election, ought, for any infirmity in the law itself, or anything done by a political committee in virtue of the law, to be held by the Senate not entitled to his seat.

All that the Senator from Nebraska said about the Vare case and about the Smith case meets with my entire approval. The Senator participated in those cases. So did I, in a very humble way. In the Smith case I took the position that it made no difference whether the primary law was a part of the general election law of the State, whether it had been integrated into the election law, the fact being that Mr. Smith had passed through the primary, obtained through the primary the right to go on the ballot in the general election, and had subsequently been elected to this body.

There was not anything wrong with the primary in the Smith case. There was not anything wrong with the election in the Smith case, so far as the Senate knew. There was not anything wrong with the primary election in Pennsylvania in the Vare case. My meaning is that there was no infirmity in the primary law of the State of Illinois, nor in the manner of calling or holding the primary election, so far as shown. What was the wrong? It was the moral wrong of Mr. Smith, who, as chairman of the Utilities Commission of the State of Illinois, with power to fix the rates of public utilities, accepted large sums of money from those utilities, and used that money to defray his expenses in the primary. We thought that the amount of money used and the source from whence it came justified the exclusion of Mr. Smith.

Nothing that occurred in the primary could cure the moral defect found in Mr. Smith; nothing that occurred in the election could restore him to moral health, because Smith was affected with an incurable disease. There was not anything wrong with the primary in Illinois, let me repeat, but there was something wrong with Mr. Smith.

I think I may say that there is a vast difference between a Senator elect who appears at the bar of the Senate and seeks admission against whom charges involving moral fitness are made and one who, because of some law of the State, with which we do not agree, is challenged on that account. The fair-minded Senator from Nebraska, of course, concedes that the law referred to has been the law through a period of years, and that the same rule, in substance, has been applied in other elections. Presumably the contestant in this case had the advantage of it in a preceding election, because there could have been little use of having a similar rule unless the rule should operate to exclude some one from the primary. The point I make is that the law had existed for many years, and the executive committee of the party had exercised exactly the same power in previous primary elections.

I believe that it would have been unwise for the executive committee of my party in my State to attempt to exercise any such power as was exercised in Alabama in 1930. Publicly I declared that no such regulation as that should be adopted, and the basis upon which I put my declaration was substantially the same broad ground of sound public policy upon which the distinguished Senator from Nebraska puts his objection in this case.

The point is, however, that as between a candidate who is morally unfit, which no election, even an election unopposed, and no primary nomination can cure or remedy, and a candidate who comes here affected only by the infirmity of a law of his own State, conceding the infirmity to exist,

a law which stands upon the statute book, which the courts of the land have not stricken down, either because not invited to do so, or because they could find no grounds upon which they could legally strike it down, the cases are vastly different, it seems to me, as different as the day from the night.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. NORRIS. Of course the Senator will do me the justice of saying that while I argued the injustice of the law itself, I did not say that the contestee should be denied a seat because I opposed that law. I claim that the law was violated by the committee, and that on account of that violation the primary was null and void.

Mr. GEORGE. I am glad we get to that point. There is no Member of this body, and I have known no Member of the Senate during my service, who universally views every great question and every moral question with a higher degree of fairness than the distinguished Senator from Nebraska.

Now I come to the question which the Senator raises, and I invite his attention, while I may repeat what he has said. In the first place, Alabama has a system somewhat peculiar. The law of the State defines a political party, and it defines it mechanically, in a sense. A political party in Alabama is an assemblage or association of voters who agreed in the last preceding general election in that State upon candidates, and who cast 25 per cent or more of the votes cast in the last general election.

Mr. President, that leads me to this observation: Section 612 is as the Senator from Nebraska has read it; but, before again reading section 612, permit me to read section 624 of the Code of Alabama:

> Any qualified elector who is also a member of a political party as herein defined—

How defined? Simply as those voters who associated themselves in the last preceding election held in the State of Alabama, if their vote amounted to 25 per cent or more of the total vote cast in the State in that election. That is a political party, and the Code of Alabama is regulating that kind of a political party, and none other.

To come back to section 624:

> Any qualified elector who is also a member of a political party as herein defined, participating in a primary election, shall be entitled to vote at such primary election and shall receive the official primary election ballot of the political party and no other.

That provision applies not only to Democrats; it applies to Republicans, it applies to Socialists, if in the preceding general election they were able to cast, for particular candidates or particular measures, 25 per cent of the votes cast in the election.

Now I come to section 612. That section, properly construed, in the light of the provision I have just read, simply means this, that all persons who are qualified electors and who are also members of a political party are entitled to vote in the primary election of that party.

The language to which the Senator called attention, that is, "subject to the same political qualifications prescribed by the party authorities for their candidates," may be subject to the interpretation and construction which the Senator has placed upon it. Indeed, that may be the natural interpretation of the words and language. But I do not think that is the true construction of the act. I do not wish to get into that field of argument, because it seems to me that in law and in morals the case should be decided without raising hair-splitting distinctions in an attempt to construe this particular statute.

Bear in mind that the law of Alabama is dealing with political parties as defined by the code; and, as defined by the code, a political party is simply a group of men who voted for the same candidates in the last general election, if the group represented 25 per cent of the total vote cast in the State.

Bear in mind that the form of the ballot is prescribed; and it is declared that all qualified electors who are members of a political party may obtain the ballot of that party and may obtain the ballot of no other party.

The primary purpose of section 612 is not to declare who is entitled to vote. That is not the purpose of the section. The primary purpose, as I think, when we consider all applicable sections together, is a rule of construction which lawyers know quite well.

This section intended another thing. The black-letter type says "Who may vote in a primary election," it is true, but in every code State, as far as I know, there are opinions of the courts holding that the black-letter type is not a part of the section. The weight of authority is to that effect, at least. The black-letter type expresses the idea of the one who makes the index.

One purpose of section 612 was to emphasize the fact that the governing authorities of a political party have the right to lay down qualifications for its candidates.

It is true that in another section of the code it is expressly said that "Any executive committee of a political party may fix assessments or other qualifications as it may deem necessary for persons desiring to become candidates for nomination to office," and so forth. But section 612, in my opinion, although I do not desire to overemphasize the point, because I do not think this matter ought to be decided upon it, was intended to make clear beyond all peradventure that the executive committee or governing authorities of a political party in Alabama could fix the qualifications of candidates for office.

Mr. President, whether they should be allowed to do that is a different question, but the fact that they are permitted to do it, so long as they are restricted to reasonable qualifications of candidates, can not result in the harm which the Senator from Nebraska contemplates. In other words, it can not result in the destruction of republican government. If it is a reasonable qualification, it is one which a voluntary association of men for political purposes ought to have the right to prescribe. Whether they do prescribe it and do insist upon the right to prescribe it, is of course a question of policy.

The Senate is sitting as a court in this matter, and no court can say, or ought to say, that a voluntary association of men for political purposes may not prescribe reasonable qualifications for the candidates of the group. Indeed, I undertake to say that no court can rightly say that under the Constitution of the United States or the constitution of any State in the Union, because when any court undertakes to say such a thing it seems to me that it violates the primary and fundamental right of association between citizens for moral, religious, educational, or political purposes. The political group can be regulated and the State may say that it must not prescribe an unreasonable qualification.

I have no hesitancy in saying to the Senator that a rule that a candidate for public office in Alabama should be barred because he voted for all the ticket down to road commissioner and refused to vote for the candidate for road commissioner, or other candidate on the ticket, would be an unreasonable rule which, in my opinion, should be stricken down.

Mr. NORRIS. Mr. President, will the Senator yield to me?

Mr. GEORGE. I yield.

Mr. NORRIS. I preface my interruption by saying that I fully agree with the Senator's last statement; but I want to call attention to the fact that the Senator from New Mexico [Mr. BRATTON], a man whose judgment upon a legal proposition I would respect as much as the opinion of any other man in this body, or outside of it for that matter—and I know the Senator from Georgia has the same respect for his opinion—does not agree with the Senator from Georgia. He thinks that would be reasonable. That only calls to mind—and that is the purpose of my interruption—the great difficulty that would arise.

Mr. GEORGE. The Senator is quite right, but I think the able Senator from New Mexico may not have fully considered his answer or he may not have fully appreciated the question propounded by the Senator from Nebraska. If the Senator should believe that some one candidate on the party ticket was corrupt and the Senator should strike his name, as he would, a rule that would exclude the Senator from

participating in the next primary following would seem to me to be unreasonable. The rule would seem to be clearly unreasonable. But if the Senator did not stop at that, the situation would be different. It would be different if he should oppose the ticket, the head and front of the ticket—that is, the candidates who represented the policies and principles of the party itself and because of those policies and principles. I agree with the Senator that no one but the individual voter can ordinarily determine what he is—that is, whether he is a Democrat or Republican. Particularly is this true at this time in the history of the country. It is one thing for the party to lay down a reasonable rule, and what is a reasonable rule, of course, depends upon all the facts and circumstances of the case.

Mr. President, I want to come to the two cases considered by the Alabama courts. In the first instance the case of Wilkinson was an equitable proceeding in a court of chancery. All that court decided was that the court of equity had no jurisdiction of the case. One justice of the supreme court, on appeal, thought differently, and proceeded to state what he believed to be the true view of the law. Aside from the value of his opinion, he believed that the court had jurisdiction and he therefore should have said what he believed the law to be. But the other judges held that the court did not have jurisdiction, and being of that opinion, the majority of the court properly withheld judgment on the merits.

The Lett case——

Mr. NORRIS. Mr. President, may I interrupt the Senator?

Mr. GEORGE. I yield.

Mr. NORRIS. I do not want to be understood as finding fault with the court in that case, because they did not go into the merits.

Mr. GEORGE. I so understood the Senator.

Mr. NORRIS. They reached the conclusion that they had no jurisdiction, and having reached that conclusion they did not write an opinion.

Mr. GEORGE. I think, under the Alabama statute, they were compelled to reach that decision, because they have a statute dealing directly with the power of a chancery court in election cases, which seems to restrict the courts of that State in election cases.

The rule promulgated by the Republican county committee in the Lett case is different from the rule promulgated by the Democratic executive committee in the case at bar. The rule in the Chilton County case promulgated by the Republican committee did require more of the candidate than it did of the voter. The candidate refused to comply with the rule; and the committee, construing the rule, said, "You can not get your name on the ballot." As applied, the rule of the Republican county committee and the rule of the Democratic State committee under consideration present much the same situation, if not the same situation. Lett made his application upon the law side of the court.

Mr. NORRIS. I can not quite agree with the Senator about the real thing that happened. Mr. Lett declined to make the affidavit, and, therefore, the chairman of the committee refused to accept his application.

Mr. GEORGE. That is correct.

Mr. NORRIS. He did not say by that act that, if Lett had taken the oath and had shown that he voted for a Democrat instead of a Republican for President, he would have declined to receive the application.

Mr. GEORGE. No; there is not any express declaration, but his failure to make oath as required by the Republican committee effectively excluded him from the primary.

Mr. NORRIS. It does not follow under that construction that if he had made the oath and complied with it, he would have been kept off the ticket.

Mr. GEORGE. It does not necessarily follow; but in the Lett case a qualification was required of the candidate which was not also required of the voter, and that requirement of the candidate as interpreted and applied by the party committee effectively excluded the candidate from a place on the party ballot in the primary election.

What I am getting at is that that case is authority for the proposition that the Republican County Committee of Chilton County had the right to prescribe qualifications for a candidate. That case is authority for the proposition that having prescribed reasonable qualifications for the candidate, he had to meet them. That case is further authority, direct authority, as it seems to me, that when the county committee called the primary, put the machinery of the party in motion, one who could and did qualify and who got the nomination in the primary was entitled to go on the Republican ticket as the nominee of that party in the county election.

Mr. BLAINE. And there was no dissenting opinion in the Lett case?

Mr. GEORGE. No.

Mr. BLAINE. Judge Thomas, who dissented in the Wilkinson case, concurred in the majority opinion in the Lett case.

Mr. GEORGE. Exactly.

Mr. NORRIS. Mr. President, may I ask the Senator a question at that point?

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Nebraska?

Mr. GEORGE. Certainly.

Mr. NORRIS. Following the question of the Senator from Wisconsin, is it not fair therefore to assume that at least in the judgment of Judge Thomas there was no conflict between his opinion in the Wilkinson case and his agreement with the result reached in the Lett case?

Mr. GEORGE. Exactly. It is entirely fair to Judge Thomas to say that he saw no necessary conflict with the view expressed by him in the Wilkinson case. But what does follow? Judge Thomas recognized this fact, which is fundamental it seems to me, that the party officials, having brought into life a primary election in Chilton County and having prescribed a reasonable qualification for a candidate which was different from and additional to the qualifications prescribed for the voter, nevertheless agreed that the primary must continue to the selection of the nominee of the Republican Party in Chilton County for the particular county office.

Judge Thomas undoubtedly thought, unquestionably thought—and he may have been right—that when the additional qualification was fixed for the candidate, that the same qualification ipso facto applied to the voter; or he may have thought that the fact that the class of voters had been enlarged, that a privilege had been granted to the voter which the candidate himself did not enjoy, was not a reason which the candidate could urge against the rule fixing the qualifications of the candidate.

The point I reach is that when the primary was brought into being by the proper party officials, the fact that they prescribed an erroneous rule in that they required more of the candidate than of the voter, the fact that they prescribed an illegal qualification for the candidate did not wholly void the primary. It could not wholly void that primary, because the voters who had a right to go into the primary and vote constituted at last the party for which the committee had spoken in the first instance. The voters could have gone in the primary and said, "We will disregard the illegal rule. We will wipe away the illegal qualifications fixed. We will not be bound or fettered by them. You are merely our agents to make reasonable, legal qualifications." Now, is not that law and is not that common sense? After all, good law is common sense.

If that is not the law, what result have we here? We have a distinguished former Member of this body, Mr. Heflin, going into the general election in Alabama, organizing a political party, deliberately taking his chances at the polls as the candidate of that party, with the knowledge that if he should lose he could still come into court—and the Senate is the court—and say to the court, "They beat me in the election. I took my chances there. Had I won, I would have said nothing more, but now I come here and petition you to upset the election, because Mr. Bankhead's name should not have been on the ballot"—for no moral wrong

in Mr. Bankhead, but upon a ground existing before the election.

I am not speaking to the Senator from Nebraska, because the Senator and myself occupy the same boat, but I would rather be John Bankhead and walk out of this body than to be a member of the regular organization on the other side, who could and did swallow Smith and Vare with all of their corruption, and yet vote to exclude John Bankhead for mere infirmity in State law or party resolution. Our friends can not and will not, I am persuaded, face the country on such a record.

Mr. President, is it not right in morals and in law to say to Senator Heflin, "You knew this primary had been called. You knew the resolution had kept you out. You knew the law of your State. You did nothing to prevent Mr. Bankhead's name going on the ballot in the general election following his selection in the primary. You had 30 days' notice after the certificate was filed with the secretary of state; ample opportunity to have taken appropriate steps to prevent Mr. Bankhead's name from appearing upon the ballot as the party candidate."

The constitution of Alabama does not require a political party to hold a primary; but, on the other hand, the constitution of Alabama says to the legislative, the judicial, and the executive branches of the State government, "You can not make a party primary compulsory. You are forbidden by the express language of the constitution from requiring any political party to hold a primary election."

There are several ways in which one may get his name on the ticket in the general election. He may get his name on the ticket through a primary. He may get his name on the ticket through caucus action. He may get his name on the ticket through a petition signed by a given number of electors. He may get his name on the ticket as the representative of a political faction, as I interpret the law of Alabama.

If the executive committee of the Democratic Party of the State called the primary, if it had the power to call it, if it had the power to prescribe reasonable rules and regulations under which the primary should be held, then Mr. Bankhead had the right to enter the primary if qualified.

The rule is that timely objection must be made to the entry of a name as a party candidate upon the official ballot, and if timely objection is not made, after the election the successful candidate has a clear title to the office if the election is free from fraud. If I am excluded by my party from its primary and, as I think, illegally excluded, why should I not exhaust my rights and remedies before the general election is held and before the people go to the polls and vote? They have the right to assume that my opponent, the party nominee, is entitled to a place on the ticket as the party's nominee if I do not challenge it. I can not refrain from the doing of the things which I ought to do, take my chances at the election, and then, perchance, if defeated, come into court and ask the court to set the election aside for causes existing before the election, the election being free and fair.

Mr. President, I am not going to cite authorities. They may be found in the report. Only two States, so far as I know, have failed to follow the rule. Montana had a different rule; the decision of the Montana court was doubted, expressly questioned, if not finally overruled. The State of Kentucky adopted a different rule in one case, or, at least applied it. The distinguished Senator from Kentucky [Mr. LOGAN], who comes from the court of last resort of that State, will bear me out in the statement that the Kentucky court has now adopted the general rule.

Now, Mr. President, I am going to discuss the merits of this contest. Former Senator Heflin, in his position yesterday, was entirely right in maintaining that some one was elected at the November, 1930, election in Alabama. If Senator Bankhead was not elected, Senator Heflin was elected, and we must not dodge the question. An election was held under the authority of law; somebody was elected; and it is the duty of the Senate to say who was elected, unless, of course, the Senate finds it impossible to determine who received the highest number of votes cast by the legally qualified electors participating in the election.

The opposition to Senator Bankhead has never undertaken to discover and determine the legal votes cast in that election. It has not undertaken the primary duty of determining what votes were legal and for whom cast. It has looked for irregularities; it has looked for failure of election officers to comply with provisions of the law; it has looked for flyspecks; but it has not inquired whether John Doe in precinct No. 1, of Jefferson County, for instance, was a legally qualified elector and whether his vote was counted as he cast it. And on account of irregularities we are asked to declare this election void.

I ask Senators to bear with me for a moment. Let us make a concrete case of it—and the only way by which we can test any question of law is by making a concrete case of it. Here is John Doe, a legally qualified voter in precinct No. 1, let us say, in Jefferson County, Ala. On this particular election day John Doe went to the polls. When he got there, he found that the sheriff of the county had not provided an election booth. Jefferson County is one in which there is a city or town of more than 3,000 population. John Doe is a good citizen; he has paid his taxes; he is entitled to vote; but the sheriff of the county has not provided an election booth. For the fault of the sheriff is John Doe to be denied the right to cast his vote and to have it counted? My good friend the Senator from Delaware [Mr. HASTINGS] says, "No; I would not put it on that narrow ground"; but let us go a little farther. John Doe asks for a ballot; the law of Alabama says that a ballot must be furnished him, and that when it is furnished him, the election officer must tear off the stub and put his initials on the stub of the ballot. John Doe is a good citizen; he is an honorable citizen; he has paid his taxes; he supports the churches and does everything that a good citizen should do. He takes the ballot furnished him. He can not make the election officer tear off the stub and, if he tears it off, he can not compel him to put his initials on it. But it is said John Doe, finding no booth and not being able to get a ballot with a stub detached and properly marked, must not be allowed to vote and his vote can not be counted; opportunity for fraud is too great.

Let us go another step. The election managers take the ballot from John Doe but do not number it. The law provides they shall number it, but they do not number it, or, perchance, one of the managers gets out a lead pencil and numbers it in pencil, when the law says he shall number it in ink. Is John Doe to be deprived of his vote on that account? There was no booth; the stub was not taken off the ballot; the election officer did not initial the stub; he did not put the number on the ballots. John Doe is yet a man who has paid his taxes; he is entitled in morals and in law to vote and to have his vote counted; but the Senate is asked to throw out his vote; the Senate is asked to throw out the votes of 250,000 John Does because the sheriff did not build a booth and the election manager did not detach the stub and did not put his initials on the stub and did not number the ballot or, if he numbered it, he did not number it with pen and ink.

Then we come to the final, crowning infamy of it all in denying John Doe the right to vote and to have his vote counted as cast. He not only did not find the booth and the stub was not detached and the ballot was not numbered but when the election managers finally counted the ballots they did not roll his ballot, but folded it and put it in a box unsealed. Poor John Doe, who has done nothing but pay his taxes, live an upright and godly life, walk before his fellow citizens as a man without fault, blame, or blemish is disfranchised.

Mr. HOWELL. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Nebraska?

Mr. GEORGE. I yield.

Mr. HOWELL. Is it not a fact that throughout this country John Doe always has suffered from just such things time and again?

Mr. GEORGE. Oh, yes; that may be true.

Mr. HOWELL. The will of John Doe has been negated because of the fact that ballot boxes were not closed, because of the fact that the rules providing for the safety of the ballots were not followed; in fact, that is just exactly where the enemies of good government do their evil work——

Mr. GEORGE. I understand that.

Mr. HOWELL. Through neglecting to do these things, and these things are important. I remember last year in an election held in the State of Nebraska the election commissioner failed to put his initials upon the ballots of absentee voters; and although with those ballots the election had been carried, the supreme court held that because the election commissioner had not put his initials upon the ballots therefore the election was lost.

Mr. GEORGE. Yes.

Mr. HOWELL. So John Doe is suffering from that sort of thing all over this country.

Mr. GEORGE. I do not want the Senator to argue in my time. If the Supreme Court held that, in the absence of a statute expressly declaring that if the initials did not appear upon it, the ballot must be declared void, the decision of the court is to be regretted, because the voter's right to cast his ballot and to have it counted ought not to depend, and in sound law does not depend, upon the uncertainty of petty election officers fully discharging all directory duties placed upon them. If the law of the State expressly declares that the ballot must be held void if any particular requirement has not been complied with, then I grant that the court must hold as the distinguished Senator from Nebraska says the court did hold in his State. The Alabama statute in express terms declares, however, that no irregularity, nor any number of irregularities, not even fraud, not even corruption, shall invalidate or void the election or change the result thereof, unless the candidate who was not declared elected can be shown to have received the greater number of legal votes cast by the qualified electors in the election.

Mr. HOWELL. Mr. President, how are you to determine, in the case of fraud, whether the ballots cast for the candidate who was declared elected were fraudulent ballots or not? When there is fraud, you can not trace it out. The fraud is to accomplish a result; and if enough fraudulent ballots are introduced——

Mr. GEORGE. I beg the Senator's pardon; if there is fraud, and if there is any proof of it, you can trace it out. Fraud is never presumed. It must always be proved; and I desire to call the Senator's attention to what happened in this case.

Late last autumn both the contestant and the contestee were given complete list of voters who participated in the Alabama election, and they were given the information as to how each voter voted; but there has been no showing, and no attempt to show, that the voters did not in fact vote and were not in fact entitled to vote just as they were recorded.

Mr. HOWELL. Mr. President, after the ballots are put in the box, is it not almost impossible to tell whether or not the ballots were fraudulent and which ones were fraudulent.

Mr. GEORGE. Oh, no. If the Senator, for instance, finds a precinct in which 50 citizens voted and is given the information for whom those 50 citizens are represented to have voted, why can not he, through his friends in that district, ascertain from the 50 voters in that district whether they did in fact vote for A or vote for B, as they were recorded by the election managers? It presents no insuperable difficulty. If there is fraud, generally it can be shown, especially when it is alleged to have occurred in every county in the State of Alabama, in every precinct, and when the same kind of fraud appeared in the counties where the officers were of the Republican Party and where they were of the Democratic faith, and especially where the same sort of alleged irregularity from which fraud is suspected occurred in the votes cast for both Senator Bankhead and Senator Heflin.

Mr. HOWELL. Mr. President——

Mr. GEORGE. If fraud upon that scale existed, it would be quite possible to ascertain it. Then, again, it must be assumed that the entire force of election officials of a State, charged with the responsibility of conducting a fair election, would never sit down and certify the results of an election if there had been wholesale fraud in every county in that State in the face of abundant evidence of the existence of that fraud.

Mr. HOWELL. Mr. President, I have had some experience in attempting election reforms, and I know that we could not trace fraud; and for that reason we were compelled entirely to reform the laws. I am amazed that the Senator suggests that it is a simple and easy matter to prove fraud in an election.

Mr. BLACK. Mr. President, will the Senator yield to me to ask the Senator from Nebraska a question?

Mr. GEORGE. I yield for a question.

Mr. BLACK. In the case the Senator is discussing did you have numbered ballots, so that you had the names of the people who voted, and how they voted, and all you had to do was to ask a man whether he had been marked right or wrong?

The Senator says he could not find that out. Did you have numbered ballots?

Mr. HOWELL. Mr. President, we found that the poll books contained names, and we could not find the voters, and we could not prove that the voter was not there. We found where the ballot boxes had been taken out and the ballots entirely changed and remarked, and it was impossible to trace down and prove the extent of the fraud.

Mr. GEORGE. That was fraud if you found that, I want to say to the Senator—palpable fraud. That is not the case here.

Mr. HOWELL. Of course it was fraud. The fraud was general in this particular section, and it was impossible to trace it down to any individual who was a candidate. It was beyond his means.

Mr. GEORGE. There was general fraud, which would, of course, invalidate the election. I am not discussing that sort of case, because this is not that sort of case.

Mr. HOWELL. No; but the only reason why I am speaking of this is that the Senator has insisted that where there is fraud you can trace the fraud. I insist that you can not trace it. It is impracticable to trace it.

Mr. GEORGE. Mr. President, I insist that you can, and I insist that that is what you are required to do by every American court; but I do not care to argue the matter with the Senator any further.

Mr. President, let us see what the record in this contest reveals.

The total number of ballots counted by the supervisors was 248,942.

The supervisors found that 6,238 of these ballots were not cast for either candidate for the Senate.

The supervisors counted 242,704 votes for Senator.

Nineteen thousand two hundred and thirty-six of these ballots were rejected by the supervisors because of one or more of the alleged irregularities pointed out in the minority report filed by the Senator from Delaware [Mr. HASTINGS].

From the total number, 242,704, if we subtract the 19,236 ballots which the supervisors thought ought to be rejected, we have a balance of 223,468 votes cast for Senator in the November, 1930, election in the State of Alabama.

The supervisors gave to Mr. Bankhead 134,430 of these votes. They gave to Mr. Heflin 89,038 of these votes.

Taking away from Mr. Bankhead every classification of ballots that can be said to be considerable, and giving to former Senator Heflin the benefit of every doubt that can be raised upon this record, we have the following:

The supervisors found and counted 7,439 ballots which should be rejected, according to the supervisors. They could not say for whom they were cast; but they agreed that these votes ought to be thrown out, being illegal, in the opinion of the supervisors. Let us deduct all of these votes from Senator Bankhead's total. Certainly Senator Heflin re-

ceived some of them; but let us charge them all to Senator Bankhead. Subtracting the 7,439 from 134,430, we have a balance of 126,991 for Senator Bankhead.

There were 2,335 votes which were permitted to be cast upon what were said to be incomplete affidavits or challenged oaths and for other irregularities, pointed out by the supervisors. Some of these votes were certainly cast for Senator Heflin; but let us take every one of them away from Senator Bankhead and leave Senator Heflin's vote unimpaired. Still we have a balance for Senator Bankhead of 124,656 votes against 89,038 for Senator Heflin.

Much has been said about the absentee ballots. According to all of the figures furnished us by the supervisors, properly analyzed, 11,391 absentee ballots were cast in the election. There were counted and identified some 3,834 absentee votes. Of the absentee ballots counted and identified Senator Bankhead received 2,325. Senator Heflin received and was credited with 1,509.

Let us assume that there is too much doubt about the absentee ballots to permit the committee to count any of them; and, subtracting the absentee ballots identified, we have the following:

Senator Bankhead, 122,331 votes.

Senator Heflin, 87,529 votes.

Then there were absentee ballots totaling 7,556 which could not be identified; that is to say, it could not be determined for whom they were cast. Some of them certainly were cast for Senator Heflin, because he received about 40 per cent of every particular classification of the ballots cast in the election, and Senator Bankhead received about 60 per cent. But take them all from Senator Bankhead, and we have a total left for Senator Bankhead of 114,775 against 87,529 for Senator Heflin.

Then there were three counties in which the record here shows that the ballots were burned. It is shown from the testimony of witnesses whom Senator Heflin himself yesterday declared to be men of honor and integrity that they were openly burned; that the public in some instances was invited to come and see the ballots burned. The officials made affidavit to the fact that they were burned because they thought they were not required to keep them more than 30 days, and in one instance because the sheriff was going out of office, and he did not wish to leave the ballots in his office, and he, therefore, decided to burn them before his successor took office. Whether the officers of Alabama are telling the truth, I do not know; but I would not stand upon this floor and charge that every election officer in the State of Alabama, many of them Republicans, many of them Democrats, had falsified their oaths, had disregarded the duty which they were sworn to perform.

Under the primary law of the State of Alabama—and the Senator from Nebraska [Mr. NORRIS] has reminded us that the primary in Alabama usually determines the election, and that is true—under the primary law of the State of Alabama the ballots might be lawfully destroyed within 30 days after the primary election. Therefore there was some basis upon which these three officers acted. But let us assume that the ballots in these three counties were unlawfully and corruptly destroyed—that is, for the purpose of covering up fraud.

The counties in question are Bibb, Henry, and Houston. Without enumerating the vote cast in each of the counties, permit me to say that the total vote cast in the three counties for both Senator Bankhead and Senator Heflin was 8,394. Now, let us say that these votes should be given, all of them, to Senator Heflin. Add to Senator Heflin's vote all of the ballots as disclosed by the official returns in the counties of Henry, Bibb, and Houston, or 8,394, and we have the final total of 114,775 votes for Mr. Bankhead and 95,923 for Mr. Heflin, or a clear majority of 18,852 votes in favor of Mr. Bankhead.

Let me call attention to one other fact. The votes cast for both Senator Bankhead and Senator Heflin as counted by the supervisors total 223,468; 114,775 is a clear majority of the total, and 114,775 is the irreducible minimum of the 150,000 votes received by Senator Bankhead in the election, according to the official returns.

Finally, I repeat that I am wholly unable to see how any Senator who voted to seat Smith, of Illinois, in the light of the record in his case can vote to exclude Senator Bankhead because he ran under a law of his State and under a resolution of his party with which you may not agree. No fault can justly be imputed to him and no fraud is charged against him.

EXECUTIVE SESSION

Mr. McNARY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

REPORTS OF COMMITTEES

Mr. McKELLAR reported favorably from the Committee on Post Offices and Post Roads certain nominations of postmasters in Tennessee.

Mr. ODDIE reported favorably from the Committee on Post Offices and Post Roads sundry nominations of postmasters.

THE JUDICIARY

The Chief Clerk read the nomination of E. Coke Hill, to be district judge, district of Alaska, Division No. 4.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Robert W. Colflesh to be United States attorney, southern district of Iowa.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Lewis L. Drill to be United States attorney, district of Minnesota.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of C. W. Johnson to be United States attorney, northern district of Texas.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of R. John Allen to be United States marshal, district of Wyoming.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

POSTMASTERS

The Chief Clerk proceeded to read sundry nominations of postmasters.

Mr. McNARY. I ask that the nominations of postmasters be confirmed en bloc.

The PRESIDENT pro tempore. Without objection, all postmaster nominations on the calendar are confirmed en bloc.

IN THE ARMY

The Chief Clerk proceeded to read sundry nominations in the Army.

Mr. FLETCHER. I ask that all Army nominations be confirmed en bloc.

The PRESIDENT pro tempore. Without objection, all Army nominations are confirmed en bloc.

The Senate resumed legislative session.

ANALYZING THE FEDERAL BUDGET—ADDRESS BY DAVID LAWRENCE

Mr. FESS. Mr. President, I have a manuscript containing an address delivered by David Lawrence over the radio on April 24, 1932, entitled "Analyzing the Federal Budget," which contains some very interesting data. I would like to have the address printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

We hear a great deal of loose talk nowadays about the high cost of government. In the first place, what do we mean by "government"? Shall we visit upon the Federal Government all the sins of the several States and the cities? Combined, all three units spend about thirteen and a half billion dollars a year, of which the Federal Government spends less than one-third. In the last decade the Federal Government has been paying off the public debt at the rate of about $9,000,000,000 and has been yielding surpluses. We heard nothing about the high cost of government

until something happened to income. What we are facing to-day is the high shrinkage of income.

This, to be sure, brings us face to face with the necessity of balancing the Budget, for the shrinkage in income has been about 50 per cent. Instead of taking in four billions a year for the Federal Government, we have been collecting only about two billions.

The Federal Government's Budget is being cut. Congress is struggling with the problem to-day and so is the Executive. Unfortunately the task is being made more difficult by the vast amount of pressure exerted on the one hand by those who insist the Budget can be cut sufficiently to avoid all increased taxes and those who insist it should not be cut so as to affect their particular projects or interests.

Now, let us see just what there is to the theory that the Government has suddenly become an extravagant and wasteful institution, and that all the Budget surgeons have to do is to eliminate the wasteful or extravagant or superfluous bureaus and it will bring about a balanced Budget without increased taxation or increased borrowing.

I have to-night reclassified the official estimates for the new Budget. I am not taking into account anything in the way of economies that have been projected in the last few weeks, for I shall try to explain those to you next Sunday night, but I am dealing now with the recommendations made to Congress last December which furnish a basic outline of what has to be done in order to balance the Budget.

Out of the $4,000,000,000 Budget, the entire expense of all the departments, bureaus, commissions, independent establishments, Congress, and the legislative establishment amounted to about $504,000,000.

Just think of it. If we abolished the entire civil establishment of the Government, we would save only a half billion dollars. How, then, can we say that by cutting out "useless bureaus" we can meet a deficit which for the year ending June 30 next amounts to two billions and a half dollars?

Now, just keep in mind this $504,000,000, and we shall build up the items showing how the rest of the Budget is spent, at least how the estimates for the year beginning next July were made up when submitted to the present Congress for further economies and cuts.

The next big item is the Army and Navy. It amounts to $659,000,000. Who says we should abolish our national defense? Is the world ready yet for complete disarmament? Do the violations of treaties in the Far East recently indicate we have reached the point where we can discard the Army and Navy? Well, you will say they should at least be efficiently administered. Let us grant that and concede there are some economies to be effected, but we certainly will not find we can dispense with the whole $659,000,000 for the Army and Navy.

Thus far, adding the $504,000,000 for the civil establishment and the $659,000,000 for the Army and Navy, we add up to $1,163,000,000.

We come next to the interest on your Liberty bonds and Government securities. We certainly can not repudiate those commitments. Our banks have them in their vaults. They are a part of the capital structure of the Nation. We can not revise that commitment or cut it in any way. The interest amounts to $640,000,000. Think of it—almost as much as the Army and Navy combined.

So, adding once more, we have counted up to $1,803,000,000.

We come now to the cost of veterans. This amounts to $1,123,000,000 a year. I talked about this two weeks ago and shall only say in passing that regardless of what we may think of the item, the Government has taken a commitment to its veterans which, if it decides to repudiate or revise, we might as well say frankly will be met with the opposition of veterans and their friends and it would be next to impossible to get such repudiation through Congress. Indeed, we shall be lucky if this item is not increased. There are, of course, some economies in administration and certain inequities that can be straightened out, but the most that has been recommended thus far by anybody in a position of responsibility is a cut of only $80,000,000.

But again continuing with the estimates, we find the items I have mentioned thus far, namely, $1,803,000,000, when combined with the veterans item, makes a total of $2,926,000,000.

We took in during this current fiscal year less than $2,000,000,000 in income, so if we merely want to meet the obligations I have just enumerated we would have to borrow money or increase taxes so as to get more revenue.

Now, there are two more items left that I have not dealt with. One is an item of $363,000,000 for improvements. This includes public roads, public buildings, rivers and harbors, and general construction, all urged upon the Government as a means of diminishing the ill effects of unemployment and helping the producers of raw materials and giving work to skilled as well as unskilled labor. Maybe we don't need all of that $363,000,000 this year for public works, but there again the question is whether the commitments and authorizations made in past years can or should be revised.

There is another item of $155,000,000, which is the cost of running the Post Office Department—that is the deficit. It is one of the reasons why there is now planned an increase in postage rates. But that's only another form of taxation, so whoever says we need not increase revenues by taxes or other revenue-raising measures payable by the public isn't again carefully examining our shrunken revenues.

All these items thus far count up to $3,444,000,000, and to this must be added $496,000,000 as the annual installment payment on the public debt. This item is not to be confused with the annual interest. It is known as sinking fund and is designed to diminish the principal every year.

So the total Budget thus adds up to close to about four billions.

Now, let us consider this Budget in another way. We hear much conversation about "less government in business," much "government competition with business," and so on.

Let me ask you what competition with business there is as between the Army and Navy and the business world? Where does the Navy buy its supplies; where does it buy its materials? From private business.

Again, what competition is there between the expenses of the Veterans' Bureau and the business world? Don't the veterans spend their money buying things from private business firms, stores, and individuals?

What competition is there between the money spent for interest and sinking fund on the public debt and the business world? The interest goes to the holders of securities—the American people.

What competition is there between the roads and buildings constructed and the business world which indeed profits from their construction? There are no Government contractors or laborers—for virtually all of these public works private builders are engaged.

What competition is there between the Post Office Department and the public? Would the Nation repeal the parcel post act or would it turn over the carrying of the mails to private contract and could any private concern make money out of it if the Government insisted on regulation, which it would, of course, do, lest such a Government-granted monopoly would lead to excessive prices for postage and carrying of packages? And who carries the mails? Why, the railroad and steamship companies, and now the aviation companies—they receive a large part of the Government's money.

Now, let us take all the independent commissions and boards—they cost exactly $53,000,000 a year. If we abolished them all, we wouldn't be able to balance the Budget, because the $53,000,000 is a little more than 1 per cent of the whole Budget.

We hear much comment about the costs of the various departments. For instance, we look over the departmental appropriations and we discover that the Agricultural Department spends $197,000,000. We find this to be one of the largest items. But when we examine it what do we learn? Why, that $109,000,000 of the amount is for public roads. And who wants those roads? The automobile industry, which has urged them for a generation. And without those roads we could not have made the automobile as popular a piece of merchandise as it is for the American people. So actually the Agricultural Department spends about $88,000,000 net and not $197,000,000. And would you say $88,000,000 is an excessive amount to spend annually to care for the interests of the American farmer, whose total output is on the average worth between nine and ten billion dollars a year, and has gone as high as twelve billions? That represents a big purchasing power, and we are all dependent on it and want agriculture sustained.

Let us look at the Treasury Department. Here we find in the list that the department costs $293,000,000. But out of this we must take $146,000,000 for public buildings. So the Treasury Department itself spends only $147,000,000, and out of that we find that we could logically subtract $33,000,000, which is the cost of collecting the billions in taxes and revenues and $20,000,000 for gathering of customs duties. This would make the net cost of the Treasury, if we eliminate the cost of collecting taxes, in the neighborhood of ninety millions, and even this is hardly a fair reflection of what the Department of the Treasury does, for it has the Public Health Service and miscellaneous activities that have been under that department virtually from the beginning of the Republic.

My purpose is merely to show you that the Government departments as a whole—all of them, including the independent offices—do not cost us a half billion out of our four billion, and you can not abolish them all. Even if you cut them 50 per cent, you could save but $250,000,000—a big saving, to be sure, but it would not avoid the need for some new taxation.

Next week I shall tell you just what the economy plan thus far is and what progress has been made since the estimates were submitted last December.

But in all this discussion of waste I think we should bear in mind that there are certain offsets which are rarely counted. For instance, the average salary of the higher executives of the Government is about $12,000 a year. How many corporations in America doing a business of $100,000,000 a year pay their presidents $12,000 a year? How many business men with a responsibility for spending $100,000,000 a year would take a salary of $12,000 a year? Why, we know they run from $50,000 to $100,000 a year and there are many subexecutives, vice presidents, and so on, who get in excess of $12,000 a year in the larger corporations.

The Government of the United States gets the benefit of the services of its executives at low cost. These men who come here for reasons of patriotism and fidelity to the public interest are many of them able to get many times $12,000 a year in private business. The Government gets the benefit of their ability and

talents. It mounts up to a saving of many millions of dollars a year, possibly offsetting to no small extent the inevitable waste or inefficiency that here and there creep in governmental operation.

But when we come to cutting the Budget so as to avoid new taxes let us not be misled by taking up isolated items of waste and regarding it as characteristic of the whole governmental establishment. I have enumerated the items that involve commitments. They can not be repudiated. A private business may repudiate contracts, break contracts, repudiate commitments. The Government of the United States can not do that. It can not break faith. And that is one of the principal reasons why you can not tear down the Budget structure with a wave of the hand. It can be cut, it is being cut, but we can not cut it deeply enough to avoid increased taxes.

NATIONAL FOREST RESERVATION COMMISSION

The PRESIDENT pro tempore. The Chair, under authority of the act approved March 1, 1911 (Public, No. 435), appoints the Senator from Georgia [Mr. GEORGE] as a member of the National Forest Reservation Commission, to fill the vacancy thereon caused by the death of Hon. William J. Harris, late a Senator from the State of Georgia.

JEFF DAVIS CAPERTON AND LUCY VIRGINIA CAPERTON

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 194) for the relief of Jeff Davis Caperton and Lucy Virginia Caperton, which was to strike out all after the enacting clause and insert:

That the United States Employees' Compensation Commission is hereby authorized to consider and determine the claim of Jeff Davis Caperton and Lucy Virginia Caperton arising out of the death of J. P. Caperton upon August 24, 1918, in the same manner and to the same extent as if said Jeff Davis Caperton and Lucy Virginia Caperton had made application for the benefits of said act within the 1-year period required by sections 17 and 20 thereof: *Provided*, That no benefits shall accrue prior to the approval of this act.

Mr. McKELLAR. On behalf of the Senator from Mississippi [Mr. HARRISON], I move that the amendment of the House be concurred in.

The motion was agreed to.

HOUSE CONTINGENT EXPENSES

Mr. JONES. From the Committee on Appropriations I report back favorably without amendment the joint resolution (H. J. Res. 375) to provide additional appropriations for contingent expenses of the House of Representatives for the fiscal year ending June 30, 1932, and I ask for its present consideration.

The PRESIDENT pro tempore. The joint resolution will be read for the information of the Senate.

The joint resolution was read and considered, as follows:

Resolved, etc., That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for contingent expenses of the House of Representatives for the fiscal year ending June 30, 1932:

For expenses of special and select committees authorized by the House, $15,000.

For furniture and materials for repairs of the same, including labor, tools, and machinery for furniture-repair shops, $6,500.

For stenographic reports of hearings of committees other than special and select committees, $5,000.

The joint resolution was ordered to a third reading, read the third time, and passed.

ALABAMA SENATORIAL CONTEST

The Senate resumed the consideration of the resolution (S. Res. 199) reported by Mr. GEORGE and Mr. BRATTON from the Committee on Privileges and Elections, as follows:

Resolved, That JOHN H. BANKHEAD is hereby declared to be a duly elected Senator of the United States from the State of Alabama for the term of six years, commencing on the 4th day of March, 1931, and is entitled to a seat as such.

Mr. HASTINGS obtained the floor.

RECESS

Mr. McNARY. I move that the Senate take a recess until to-morrow at 12 o'clock.

The motion was agreed to; and the Senate (at 4 o'clock and 55 minutes p. m.) took a recess until to-morrow, Thursday, April 28, 1932, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 27 (legislative day of April 25), 1932

DISTRICT JUDGE

E. Coke Hill to be district judge, district of Alaska, division No. 4.

UNITED STATES ATTORNEYS

Robert W. Colflesh to be United States attorney, southern district of Iowa.

Lewis L. Drill to be United States attorney, district of Minnesota.

C. W. Johnson to be United States attorney, northern district of Texas.

UNITED STATES MARSHAL

R. John Allen to be United States marshal, district of Wyoming.

PROMOTIONS IN THE REGULAR ARMY

Arvo Theodore Thompson to be first lieutenant, Veterinary Corps.

John Henry Read, jr., to be colonel, Ordnance Department.

Robert John Binford to be colonel, Infantry.

John Augustus Brockman to be colonel, Infantry.

James Hutchings Cunningham to be lieutenant colonel, Coast Artillery Corps.

Simon Bolivar Buckner, jr., to be lieutenant colonel, Infantry.

John Kimball Brown to be lieutenant colonel, Cavalry.

William Henry Halstead to be major, Infantry.

Randolph Gordon to be major, Infantry.

Charles McDonald Parkin to be major, Infantry.

Oakley George Kelly to be captain, Air Corps.

Bernard Tobias Castor to be captain, Air Corps.

James Alexander Mollison to be captain, Air Corps.

Harold Webster Beaton to be captain, Air Corps.

Lawrence Brownlee Savage to be captain, Quartermaster Corps.

Richard Clark Jacobs, jr., to be captain, Infantry.

Richard Earl Moore to be captain, Infantry.

Charles Stricklen Shadle to be captain, Chemical Warfare Service.

Roy Jacob Herte to be first lieutenant, Infantry.

Arthur Edwin Watson, jr., to be first lieutenant, Coast Artillery Corps.

James Oka Wade to be first lieutenant, Infantry.

Brookner West Brady to be first lieutenant, Infantry.

Harry McNeill Grizzard to be first lieutenant, Infantry.

Charles Herman Deerwester to be first lieutenant, Air Corps.

Charles Winslow O'Connor to be first lieutenant, Air Corps.

Bernard Alexander Bridget to be first lieutenant, Air Corps.

Josiah Ross to be first lieutenant, Infantry.

Charles Arthur Bassett to be first lieutenant, Air Corps.

Grant Albert Williams to be first lieutenant, Cavalry.

Herbert Kelly Moore to be major, Veterinary Corps.

Harry Dubois Southard to be chaplain with the rank of major.

APPOINTMENT BY TRANSFER IN THE REGULAR ARMY

Lieut. Col. Edwin Gunner to Infantry.

POSTMASTERS

ARKANSAS

William H. Tucker, Casa.
Douglas O. Dover, Cove.
Legrand K. Charles, Eureka Springs.
Bertha E. Millian, Lexa.
Maud Jackson, Sherrill.
William M. Dugal, Strong.
Dalton Matthews, Vilonia.
Robert L. Maddox, Winslow.

CALIFORNIA

Belle Hicks, Armona.
Thurlow T. Workman, Bloomington.
Peter D. McIntyre, Blythe.
John H. B. Speer, Delano.
Elvira J. Brown, Denair.
John H. Dodson, El Cajon.

Charles H. Coffey, jr., Gonzales.
Thomas P. Cosgrave, Madera.
William C. Werry, Palo Alto.
Edward A. Baker, Point Loma.
George R. Comings, Ramona.
Ernest R. Rhymes, Sanitarium.
Chauncey P. Wright, San Pedro.
Earle R. Hawley, Stockton.
Clarence G. Carratt, Templeton.
Clyde W. Holbrook, Venice.

COLORADO

John E. Harron, Alamosa.
Thomas F. Beck, Aspen.
Frank J. Stewart, Cedaredge.
George Haver, Eckley.
Idamay Spurlock, Fairplay.
Cora M. Johnson, Fountain.
Crissa B. Pond, Grand Junction.
Harry D. Steele, Holly.
John C. Kessenger, Limon.
Fred A. McDaniel, Oak Creek.
Martha H. Foster, Olathe.
Edna A. McCormick, Sedgwick.
Henry M. Newkirk, Swink.
James L. Allison, Woodmen.

CONNECTICUT

Earle C. Martin, Bridgeport.
Ethyl O. Engisch, Cornwall Bridge.
James F. Holden, Forestville.
Clarence L. Clark, Old Lyme.
James T. Rooney, Sound View.
Clarence B. Emery, Terryville.
Thomas J. Crockett, Unionville.

DELAWARE

Charles L. Talpey, Claymont.
William H. Evans, Newark.

GEORGIA

Will E. Davis, Boston.
J. Arthur Westbrook, Powder Springs.
Hubert H. Berry (Mrs.), Sparta.
Emmett D. Dial, Woodstock.

HAWAII

Alice J. Brown, Paia.
Joseph F. Xavier, Puunene.
William K. Kelii, Wahiawa.

ILLINOIS

Francis W. Craig, Apple River.
Sherman Dorand, Ashland.
Edwin C. O'Brien, Barry.
Elliott O. Andrews, Belvidere.
Clarence E. Snively, Canton.
S. Elmer Simpson, Carrollton.
Louis C. Schultz, Chebanse.
Verda M. Mulhall, Davis.
John E. Heffron, East Dubuque.
Robert R. Davis, Equality.
Jacob L. Pfundstein, Erie.
George F. Batty, Greenfield.
Samuel T. Little, Hillsboro.
Jessie A. Livingston, Livingston.
Harry B. Potter, Marshall.
Guy A. Meyers, Milledgeville.
Charles E. Hartman, Mount Carroll.
William Georger, New Baden.
Minor S. Miller, Pearl City.
John N. Taffee, Pinckneyville.
Jesse L. Jones, Rantoul.
Harry Hutchins, Rockton.
Willis D. Coffland, Seaton.
Edward P. Devine, Somonauk.
Harold E. Ward, Sterling.
John Wacker, Techny.
Kate M. Weis, Teutopolis.
LeRoy Gammon, Thebes.
Christian Andres, Tinley Park.
Clarence C. Cary, Utica.
Arthur Justus, Warren.
Mark Simpson, Waterman.
Lela Seneff, Westfield.
Harry L. Dean, Witt.

INDIANA

T. M. Long, Butler.
Elston H. Elliott, Lynn.
Ira J. Wilson, Muncie.
Claude L. Worster, North Liberty.
Oscar Standeford, Orleans.
Glenn H. Newby, Russiaville.

IOWA

Albert A. Emigh, Atlantic.
Royal E. Hutton, Bancroft.
John J. Ethell, Bloomfield.
Joseph M. Jacobs, Delta.
Mary E. Coy, Farragut.
William C. Upham, Fredericksburg.
Albert L. Mensing, Lowden.
Howard H. Tedford, Mount Ayr.
Frank C. McClaskey, Toledo.
Ralph Hunte, Springville.
Marion H. Barnes, Wapello.

KANSAS

William T. Perry, Belleville.
Gerald G. Smith, Burr Oak.
Arnold C. Heidebrecht, Burrton.
Wilfrid Cavaness, Chanute.
Edward L. Kier, Courtland.
Raymond C. Ogden, Eudora.
John E. Mock, Geneseo.
Susie W. Rhine, Gove.
Robert H. Rippetoe, Havana.
Charles F. Schafer, Jewell.
Ross W. Gault, Lebo.
Hiram W. Joy, Quinter.
Eldon C. Newby, Randolph.
Bessie Custer, Satanta.
Michael Fischer, Tipton.
Floy W. Sellers, Towanda.
Charles J. Roy, Wilsey.

KENTUCKY

Edna W. Morin, Alexandria.
James I. Harlan, Barlow.
Howard C. Pentecost, Corydon.
John M. Burkholder, Crofton.
William E. Keller, Eminence.
Mollie L. Nolan, Harlan.
Claude T. Winslow, Mayfield.

LOUISIANA

Robert A. Giddens, Coushatta.
Jesse L. Beasely, Harrisonburg.
Claude H. Wallis, Houma.
Mattie B. Peyton, Keatchie.
Walter C. Miller, Logansport.
Aimie B. Garrett, New Roads.
Chester C. Heinemann, Rayville.
Esther E. Harlan, Swartz.
Nannie H. Rogillio, Water Proof.
Ector R. Gammage, Westlake.

MAINE

Charles W. McClintock, Fairfield.

MARYLAND

Elmore H. Owens, Perryville.
Robert L. Hall, Pocomoke City.

MASSACHUSETTS

James J. Murtaugh, Hopkinton.
John A. Bell, Leicester.
Fred W. Trasher, Marblehead.
Charles H. Sawyer, Northampton.
Albert S. Hopkins, Norton.

Annie K. Adams, Onset.
Everett W. Carpenter, Palmer.
Walter L. Williams, Peabody.
Aloysius B. Kennedy, Rochdale.
Philip Morris, Siasconset.
Charles M. Edwards, Sterling.
Stephen C. Luce, Vineyard Haven.

MICHIGAN

Hazel M. Foster, Baldwin.
John H. Ter Avest, Coopersville.
J. Gail Show, Elsie.
James B. Haskins, Howard City.
Fred C. Putnam, Kalamazoo.
Frank J. Gehringer, Lenox.
Estella R. Newcomb, Le Roy.
Howard L. Barber, Merrill.
Howard L. Vaughan, Ovid.
Nettie C. Grayson, Pellston.
Charles H. Heath, Richmond.
Florence M. Watson, Three Oaks.

MINNESOTA

Charles L. Coy, Alexandria.
William Peterson, Atwater.
Carl H. Schuster, Biwabik.
Mae Kirwin, Chokio.
Edward B. Anderson, Elbow Lake.
George Leng, Grand Marais.
Anthony L. La Freniere, Grand Rapids.
Oscar W. Erickson, Kensington.
Herbert M. Hauck, Mankato.
Ross Andrews, Meadowlands.
Sidney D. Wilcox, Park Rapids.
Erick G. Berglund, Pennock.
Elizabeth K. Ries, Shakopee.
Lillian A. Peterson, Villard.
Joseph Trojohn, Woodlake.

MISSISSIPPI

Everett H. Badger, Columbus.

MISSOURI

George R. Steiner, Belle.
Robert D. Gardner, Center.
Glade Bradbury, Clarksdale.
Charles A. Mitchell, Clinton.
Louis N. Walker, Holmes Park.
Thomas W. Box, Lamar.
John B. Wilson, Maysville.
John L. Wilkinson, Piedmont.
Jordan W. Schaaf, St. Marys.
Harry H. Forman, Shelbyville.

MONTANA

Wedsel J. Hartman, Broadview.
George C. Core, Choteau.
Avory W. Dehnert, Denton.
George W. Patterson, Havre.
Lee Jellison, Hobson.
Robert T. Richardson, Missoula.
Arnold D. Ferris, Sidney.
Claude C. Alexander, Stanford.
Robert Parsons, Sweetgrass.
Thomas E. Devore, Whitehall.
Maurice D. Holmes, White Sulphur Springs.

NEBRASKA

Frank G. Smith, Ashton.
Louis H. Deaver, Cody.
J. Ned Allison, Gering.
Claude A. Sheffner, Hay Springs.
Given G. Reber, Naper.
Frank A. Bartling, Nebraska City.
Nettie E. Jollensten, Ogallala.
William M. Baskin, Stapleton.

NEW HAMPSHIRE

Ralph E. Messer, Bennington.
Ruth G. Hicks, Canaan.
Mina S. Roberge, Cascade.
Alice M. Sloane, Conway.
James P. Farnam, Hanover.
Effie P. Gibson, Kingston.
Harry D. Eastman, North Conway.
Everett F. Tozier, Salmon Falls.
John H. Garvin, jr., Sanbornville.
Eleazer F. Baker, Suncook.
Willis R. Morrison, Tilton.

NEW JERSEY

William G. Z. Critchley, Allendale.
Andreas H. Fechtenburg, Harrington Park.

NORTH CAROLINA

Andrew J. DeHart, Bryson City.

NORTH DAKOTA

Anton A. Ficker, Amidon.
William H. Lenneville, Dickinson.
Paul M. Bell, Elgin.
Peder T. Rygg, Fairdale.
Olaf A. Bjella, Epping.
Benjamin L. Anderson, Grenora.
Charles L. Erickson, Lankin.
Ora J. Goshorn, Rhame.
John W. Campbell, Ryder.
Arthur T. Graf, Streeter.
Austin R. Johnson, Wildrose.
Mary E. Swartwout, Wimbledon.

OHIO

Roy S. Grunder, Creston.
Roy F. Judge, Milan.
Edward P. Harker, Rossford.
Egbert H. Mack, Sandusky.
Ernest G. Lergier, Weston.
Bertus H. Moore, Williamsport.

OREGON

Fitzhugh G. Lee, Junction City.
James W. Dunn, St. Benedict.
William C. Foster, Tillamook.

PORTO RICO

Carlos F. Torregrosa, Aguadilla.
José Mayol, Arecibo.

RHODE ISLAND

Thomas F. Lenihan, Westerly.

SOUTH DAKOTA

Lottie M. Johnson, De Smet.
Linville Miles, Langford.
C. Albert Zeitner, Mission.
William R. Amoo, Morristown.
Fred S. Williams, Pierre.
Charles Furois, St. Onge.
Edna L. Brown, Timber Lake.
Carl O. Steen, Veblen.
Goodwin L. Hansen, Wasta.
Edward A. Wearne, Webster.
Charles G. Kuentzel, White Rock.

TEXAS

Lillie J. Tolleson, Bardwell.
John W. Stegall, Holliday.
John A. Wilson, Knox City.
Bassett R. Miles, Luling.
George F. Bates, Lyons.
Mabel E. Bryant, Rockport.
Hal M. Knight, Sterling City.
Ben M. Vick, Valentine.
Oliver P. Maricle, Wichita Falls.

VERMONT

George E. King, Barton.
Reginald W. Buzzell, Newport.
Casper W. Landman, South Londonderry.
Cecile M. Beaton, South Ryegate.
Lester K. Oakes, Stowe.
Claude C. Duval, West Burke.

WASHINGTON

Julia Enger, Toledo.
William F. Cantrell, Toppenish.
Rodse M. Illy, Uniontown.
Robert J. Robertson, White Salmon.

WEST VIRGINIA

Lawrence Barrackman, Barrackville.
Henry A. Russell, Berkeley Springs.

WISCONSIN

Elizabeth Croake, Albany.
Orestes K. Hawley, Baldwin.
Castor H. Kuehl, Brillion.
Earl H. Herbert, Coleman.
Frank M. LeCount, Hartford.
Edward H. Moore, Lakemills.
Frederic D. Keithley, Land O'Lakes.
Norma E. McNutt, Oxford.

WYOMING

Elizabeth L. Murphy, Edgerton.
Glenwood C. Long, Lingle.

HOUSE OF REPRESENTATIVES

WEDNESDAY, APRIL 27, 1932

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

To our Merciful Father in Heaven we offer our tributes of praise and gratitude. Incline our hearts toward Thee as we tarry in the multitude of Thy blessings, so free and full. May it always be our delight to spend our strength and zeal on the very best themes of human thought and life. We beseech Thee, our Father, that this warring, weeping old world may not go back to the trenches of hate. O bring a fresh redemption to it that shall honor Thee and bless humanity and return it to its rest. Lord God of Hosts, be with this Congress. To the troubled in spirit, to those cumbered with heavy cares, and unto all be Thou a blessing. Vouchsafe Thy guidance to direct us through these hours. We are gathered from diverse ways, from different experiences, yet united in common desire. Almighty God, administer unto us the wisdom and the faith that cometh from the infinite source of all truth. Amen.

CALL OF THE HOUSE

Mr. LaGUARDIA. Mr. Speaker, there was a very interesting and important session of the House on yesterday, and I am sure the entire membership want to hear the reading of the Journal. I make the point of no quorum.

The SPEAKER. Evidently there is no quorum present.

Mr. BANKHEAD. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 54]

Abernethy	Crisp	Hogg, Ind.	Murphy
Allgood	Crowe	Horner	Owen
Andresen	Darrow	Hull, Morton D.	Ransley
Andrews, N. Y.	Doutrich	Igoe	Shreve
Beck	Dowell	Jeffers	Smith, W. Va.
Brumm	Drane	Johnson, Ill.	Stalker
Burtness	Erk	Johnson, S. Dak.	Stokes
Campbell, Pa.	Estep	Kendall	Strong, Pa.
Canfield	Finley	Kurtz	Sullivan, Pa.
Cavicchia	Flannagan	Larrabee	Swick
Chapman	Free	Lehlbach	Thatcher
Chase	Freeman	Lewis	Tucker
Chavez	Gillen	Loofbourow	Watson
Chiperfield	Goldsborough	Ludlow	Wolfenden
Cochran, Pa.	Greenwood	McFadden	Wyant
Collier	Griswold	McGugin	
Connolly	Hart	Magrady	

The SPEAKER. Three hundred and sixty-five Members have answered to their names. A quorum is present.

Mr. BANKHEAD. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Latta, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On April 22, 1932:

H. R. 8397. An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1933, and for other purposes;

H. R. 8779. An act granting certain lands to the board of commissioners of the Orleans levee district in the city of New Orleans, State of Louisiana, for levee and street purposes;

H. R. 9066. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Tenth Street in Bettendorf, Iowa;

H. R. 9143. An act to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Elbowoods, N. Dak.;

H. R. 9301. An act to extend the times for commencing and completing the construction of a bridge across the Black River at or near Pocahontas, Ark.;

H. R. 9974. An act to authorize appointment of public-school employees between meetings of the Board of Education;

H. R. 10088. An act to revive and reenact the act entitled "An act authorizing the South Carolina and the Georgia Highway Departments to construct, maintain, and operate a toll bridge across the Savannah River at or near Burtons Ferry, near Sylvania, Ga.," approved May 26, 1928; and

H. R. 10489. An act to provide for the extension and widening of Michigan Avenue, in the District of Columbia, and for other purposes.

On April 23, 1932:

H. R. 5272. An act for the relief of Frank Bayer; and

H. R. 8087. An act authorizing the Secretary of the Interior to vacate withdrawals of public lands under the reclamation law, with reservations of rights, ways, and easements.

On April 25, 1932:

H. R. 5848. An act authorizing and directing the Secretary of War to lend to the entertainment committee of the United Confederate Veterans 250 pyramidal tents, complete; fifteen 16 by 80 by 40 foot assembly tents; thirty 11 by 50 by 15 foot hospital-ward tents; 10,000 blankets, olive drab, No. 4; 5,000 pillowcases; 5,000 canvas cots; 5,000 cotton pillows; 5,000 bed sacks; 10,000 bed sheets; 20 field ranges, No. 1; 10 field bake ovens; 50 water bags (for ice water); to be used at the encampment of the United Confederate Veterans, to be held at Richmond, Va., in June, 1932;

H. R. 882. An act for the relief of G. W. Wall;

H. R. 1202. An act for the relief of Lehde & Schoenhut;

H. R. 2594. An act for the relief of the State National Bank of Wills Point, Tex.;

H. R. 3265. An act for the relief of W. J. Shirley;

H. R. 3373. An act for the relief of Fireman's Fund Insurance Co.;

H. R. 3909. An act for the relief of Helen Patricia Sullivan;

H. R. 4329. An act for the relief of Alton B. Platner; and

H. R. 7788. An act authorizing the granting by the Secretary of War of a right of way to the Georgia Highway Department.

On April 26, 1932:

H. R. 2086. An act for the relief of Francis Engler; and

H. R. 5259. An act for the relief of Steve Fekete.

On April 27, 1932:

H. R. 10362. An act to require the approval of the General Council of the Seminole Tribe or Nation in case of the disposal of any tribal land.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, its principal clerk, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested: